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92D CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPORT
No. 92-1306

NATIONAL LAND POLICY, PLANNING, AND MANAGEMENT ACT OF 1972

REPORT

OF THE

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

HOUSE OF REPRESENTATIVES

TO ACCOMPANY

H.R. 7211

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NATIONAL LAND POLICY, PLANNING, AND MANAGEMENT ACT OF 1972

AUGUST 7, 1972.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. ASPINALL, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany H.R. 7211]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 7211) to establish public land use policy, to establish guidelines for its administration, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

The amendments are as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "National Land Policy, Planning, and Management Act of 1972".

TITLE I—FINDINGS, GOALS, OBJECTIVES, AND PURPOSE

FINDINGS, GOALS, AND OBJECTIVES

SEC. 101. (a) The Congress finds that there is an urgent need for land use planning with respect to both the Federal public lands and the land in non-Federal ownership in order to promote and secure the proper allocation of resources and to provide for the protection of the environment.

(b) The Congress further finds and declares it to be in the national interest that—

(1) Congress establish a policy with respect to the Federal public lands;

(2) public land management agencies coordinate the management of lands under their jurisdiction with one another and with the States;

(3) the people of the United States be brought into the planning process and be made aware of their paramount interest in the lands and natural resources;

(4) State and local governments be assisted in planning the use of non-Federal lands in a manner that will incorporate ecological, esthetic, economic, social, and other appropriate factors, and in developing a framework for the formulation of interstate, State, regional, and local land use policies;

(5) patterns of population distribution be influenced to make a wide range of environmental, cultural, and social amenities available to large numbers of people;

(6) there be encouraged the development of new communities, the revitalization of existing rural and urban communities, and the economic diversification of all communities to provide a wide base for products and services;

(7) the administration of Federal programs be coordinated to encourage desirable patterns of land use planning; and

(8) systematic methods for the exchange of land use, environmental, and ecological data be developed at all levels of government.

(c) The Congress further finds and declares that decisions about the use of land significantly influence the quality of the environment, and the present State and local institutional arrangements for planning and regulating land use of more than local impact often are inadequate, with the result that—

(1) important ecological, cultural, historic, and esthetic values in areas of critical environmental concern which are essential to the well-being of all citizens are being irretrievably damaged or lost;

(2) coastal zones and estuaries, flood plains, shorelands, and other lands near or under major bodies or courses of water which possess special natural and scenic characteristics are being damaged by ill-planned development that threaten these values;

(3) key facilities such as major airports, highway interchanges, and recreational facilities are inducing disorderly development and urbanization of more than local impact;

(4) the implementation of standards for the control of air, water, noise and other pollution is impeded;

(5) the selection and development of sites for essential private development of regional benefit has been delayed or prevented;

(6) the usefulness of Federal or federally assisted projects and the administration of Federal programs are being impaired; and

(7) large-scale development often is creating a significant adverse impact upon the environment.

(d) The Congress further finds and declares that there is a national interest in encouraging the States to exercise their full authority over the planning and regulation of non-Federal lands by assisting the States, in cooperation with local governments, in developing land use planning processes including unified authorities, policies, criteria, standards, and methods for dealing with land use decisions of more than local significance.

PURPOSE

SEC. 102. It is the purpose of this Act to—

(a) establish a long-term public land policy and to give direction to the Federal land management agencies in carrying out their responsibilities;

(b) provide authority and procedures for management of the Federal lands;

(c) authorize assistance to the States for land use planning; and

(d) provide a system for the planning, administration, and coordination of land use that will permit and encourage public involvement.

TITLE II—NATIONAL LAND USE PLANNING

STATE LAND USE PLANNING GRANTS

SEC. 201. (a) The Secretary of the Interior is authorized to make land use planning grants to develop a comprehensive land use planning process to any State in which an eligible State land use planning agency has been established by the Governor of such State or by law.

(b) An eligible State land use planning agency is a State agency which has primary authority and responsibility for the development and administration of a comprehensive land use planning process in such State, and has a competent and adequate interdisciplinary professional and technical staff as well as special consultants available to it throughout the planning process.

(c) A comprehensive land use planning process is a planning process in which all land and other natural resources within the State are taken into account, and in which—

(1) an adequate data base for comprehensive land use planning using data available from existing sources wherever feasible is developed;

(2) there are coordinated the planning activities of all State agencies insofar as such activities relate to land use; the regulatory activities of all State agencies enforcing air, water, noise, or other pollution standards; the planning activities of areawide agencies designated pursuant to regulations established

under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3334); the planning activities of interstate agencies insofar as such activities relate to land use; the planning activities of local governments; and the planning activities of Federal agencies, including specifically the planning undertaken pursuant to section 403;

(3) the following factors are taken into consideration:

(A) ecological, environmental, geological, hydrological, and physical conditions (including soil types, water availability, and the presence of non-renewable natural resources) that influence the desirability of various types of land development;

(B) recreational needs as shown in the statewide outdoor recreation plan required under section 5(8)(d) of the Land and Water Conservation Fund Act (16 U.S.C. 4601 et seq.);

(C) the nature and quantity of land to be used or suitable for agriculture and forestry; industry, including extractive industries; transportation and utility facilities; urban development, including the revitalization of existing communities, the continued growth of expanding areas, the development of new towns, and the economic diversification of communities which possess a narrow economic base; rural development, taking into consideration future demands for products of the land; and health services, education, law enforcement and other State and local governmental facilities and services; and

(D) the unique characteristics of areas within the State that have unusual national significance and value;

(4) substantial and meaningful public involvement and the continued participation by the appropriate officials or representatives of local governments are provided;

(5) cooperative planning of Federal lands located within or near the State's boundaries is encouraged and provided for by consultation with the National Land Use Policy and Planning Board established under section 303 and public land management agencies;

(6) technical assistance and training programs for appropriate State and local agency personnel for the development, implementation, and management of State land use planning programs are provided; and

(7) with respect to non-Federal lands, methods are provided to—

(A) identify and control the use of land in areas of critical environmental concern; prevent actions in substantial disregard of the purposes, policies, and requirements of the State land use planning process; assure that State laws, regulations, and criteria affecting developmental activities are in accordance with the policy, purpose, and requirements of the State land use planning process; and assure that State laws, regulations, and criteria affecting land use in the coastal zone and estuaries further take into account—

(i) the esthetic and ecological values of wetlands for wildlife habitat, food production sources for wildlife habitat, food production sources for aquatic life, recreation, sedimentation control, and shoreland storm protection; and

(ii) the susceptibility of wetlands to permanent destruction through draining, dredging, and filling, and the need to restrict such activities;

(B) identify and control the use of land in areas which are or may be impacted by key facilities, including the site location, and the location of major improvements, and major access features of key facilities;

(C) assure that local regulations do not unreasonably restrict or exclude development and land use of regional or national benefit;

(D) assure that federally designated, financed, or owned areas within the State, including but not limited to elements of the National Park System, National Forest System, National Wilderness Preservation System, and the National Wildlife Refuge System, are not damaged or degraded as a result of inconsistent land use patterns in the same immediate geographical region;

(E) regulate new subdivisions and land developments in order to assure that—

(i) existing and proposed improvements will be adequate to serve the needs of the projected population of the new subdivision or land development;

(ii) adequate financing arrangements have been made to assure completion and maintenance of such improvements; and

(iii) the overall design of the new subdivision or land development is adequate to prevent damage to property by reason of flooding, erosions, and other natural occurrences which are usual or predictable for the area;

(F) control proposed large-scale development of more than local significance in its impact upon the environment; and

(G) control the use of land around new communities and develop a policy for influencing the location of new communities.

(d) Nothing in this section shall be deemed to—

(1) preclude the delegation, under appropriate State authority, by the eligible State land use planning agency to other State, regional, or local governmental entities, of responsiblity and authority within a State to plan for land use or to control the use of land including the enforcement or whatever criteria may be developed, as long as all planning and control decisions of regional or local entities having a substantial impact beyond the boundaries of such entities are subject to review and approval by an appropriate State agency;

(2) permit a Federal agency to intercede in management decisions within the framework of a comprehensive land use planning process; or

(3) enlarge or decrease the authority of a State to control the use of any land owned by the Federal Government within the State, or of any land located outside the State.

ALLOTMENTS

SEC. 202. (a) Grants to any one State made under this title shall not exceed, during the fiscal year ending June 30, 1974, 90 per centum of the estimated cost, for such fiscal year, of developing and administering the comprehensive land use planning process in such State. During the fiscal year ending June 30, 1975, and the fiscal year ending June 30, 1976, such grants shall not exceed 75 per centum of such costs, for each of those fiscal years, respectively; and for each fiscal year thereafter such grants shall not exceed 50 per centum of such costs for such fiscal year.

(b) No funds granted pursuant to this Act may be expended for the acquisition of any interest in real property.

PAYMENTS

SEC. 203. (a) The Secretary shall, prior to the beginning of each calendar quarter estimate the amount of a grant to be paid to each State under the provisions of this title for such period, such estimate to be based on such records of the State and information furnished by it, and such other investigation, as the Secretary may find necessary.

(b) The Secretary shall pay to the State the amount so estimated by him for any period, reduced or increased, as the case may be, by any sum (not previously adjusted under this paragraph) by which he finds that his estimate of the amount to be paid such State for any prior period under this title was greater or less than the amount which should have been paid to such State for such prior period under this title. The Secretary may, notwithstanding the provisions of section 3648 of the Revised Statutes, make advance or progress payments on account of any grant made under this Act. Such payments shall be made through the disbursing facilities of the Treasury Department, at such times and in such installments as the Secretary may determine.

FINANCIAL RECORDS

SEC. 204. (a) Each recipient of a grant under this title shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition of the funds received under the grant, the total cost of the project or undertaking in connection with which the grant was made, the amount and nature of the cost supplied from other sources, and such other records as will facilitate an effective audit.

(b) Such other records shall be kept and made available and such reports and evaluations shall be made as the Secretary may require regarding the status and application of Federal funds made available under this title.

(c) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of the grant that are pertinent to the determination that funds granted are used in accordance with this title.

TERMINATION AND SUSPENSION

SEC. 205. (a) The Secretary shall have authority to terminate any financial assistance extended to a State for land use planning under this title whenever, after the State concerned has been given notice of a proposed termination and an opportunity for hearing, the Secretary finds that the State or the State's comprehensive land use planning process no longer meets the requirements of section 201 or that the State is making no substantial progress toward the development of a comprehensive land use planning process.

(b)(1) Section 15 of the Airport and Airway Development Act of 1970 (40 U.S.C. 1701 et seq.) is amended by adding at the end thereof the following new subsection:

"(d) Any State which is not eligible for a grant under section 201 of the National Land Policy, Planning, and Management Act of 1972, on July 1, 1976, or as of that date is making no substantial progress toward developing a comprehensive land use planning process (as defined under section 201(c) of such Act), shall suffer a reduction of 7 per centum of its entitlement to Federal funds apportioned for airport development pursuant to paragraphs (A) and (B) of subsection (a)(1) and paragraphs (A) and (B) of subsection (a)(2) of this section, in the fiscal year ending June 30, 1977. If that State is not eligible on July 1, 1977, or as of that date is making no such progress, it shall suffer a reduction of 14 per centum in the fiscal year ending June 30, 1978, and if it is not eligible on July 1, 1978, or as of that date is making no such progress, such State shall suffer a reduction of 21 per centum in the fiscal year ending June 30, 1979. Any funds so withheld shall be included in the aggregate of airport and airway development funds and shall be made available to States found eligible for financial assistance under section 201 of such Act according to the criteria prescribed for the apportionment of such funds, excluding for purposes of computation any State or States found ineligible for financial assistance under section 201 of such Act."

(2) Section 104 of title 23 of the United States Code is amended by adding the following subsection:

"(g) Any State which is not eligible for a grant under section 201 of the National Land Policy, Planning, and Management Act of 1972, on July 1, 1976, or as of that date is making no substantial progress toward developing a comprehensive land use planning process (as defined in section 201(c) of such Act), shall suffer a reduction of 7 per centum of its entitlement to Federal-aid highway funds exclusive of planning and research which would otherwise be apportioned to such State in the fiscal year ending June 30, 1977. If that State is not eligible on July 1, 1977, or as of that date is making no such progress, it shall suffer a reduction of 14 per centum in the fiscal year ending June 30, 1978, and if it is not eligible on July 1, 1978, or as of that date is making no such progress, such State shall suffer a reduction of 21 per centum in the fiscal year ending June 30, 1979. Any funds so withheld shall be included in the aggregate of Federal-aid highway funds and shall be made available to States found eligible for assistance under section 201 of such Act according to criteria prescribed for the apportionment of Federal-aid highway funds, excluding for purposes of computation any State or States found ineligible for financial assistance under section 201 of such Act."

(3) The first sentence of section 109(f) of title 23 of the United States Code is amended by striking out ", or control of".

(4) Subsection 5(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–8(b)) is amended by adding immediately after the second paragraph the following paragraph:

"Any State which is not eligible for a grant under section 201 of the National Land Policy, Planning, and Management Act of 1972, on July 1, 1976, or as of that date is making no substantial progress toward developing a comprehensive land use planning process (as defined in section 201(c) of such Act), shall suffer a reduction of 7 per centum of its entitlement under paragraphs (1) and (2) of this subsection in the fiscal year ending June 30, 1977. If that State is not eligible on July 1, 1977, or as of that date is making no such progress, it shall suffer a reduction of 14 per centum in the fiscal year ending June 30, 1978, and if it is not eligible on July 1, 1978, or as of that date is making no such progress, such State shall suffer a reduction of 21 per centum in the fiscal year ending June 30, 1979. Any funds so withheld shall be included in the aggregate of land and water conservation funds and shall be made available according to the criteria prescribed for the apportionment of such funds, excluding for purposes of computation any State found ineligible for financial assistance under section 201 of such Act."

(c) Upon application by the Governor of the State or head of the Federal department or agency concerned, the Secretary may temporarily suspend the operation of subsection (a), and the President may suspend temporarily the operation of subsection (b), with respect to any particular action, if he deems suspension necessary for the public health, safety, or welfare In the event of any such suspension the State concerned shall submit a schedule, acceptable to the Secretary, indicating when the State will be in compliance with the provisions of this title. No subsequent suspension shall be granted unless the State concerned has exercised due diligence to comply with the terms of that schedule.

RULES AND REGULATIONS

SEC. 206. The Secretary, after appropriate consultation with representatives of the States and upon the advice of the National Land Use Policy and Planning Board, shall promulgate rules and regulations for the administration of this title, including the detailed terms, conditions, and guidelines under which grants may be made or terminated, and under which the existence of a comprehensive land use planning process in a State may be determined.

TITLE III—COORDINATION OF LAND USE POLICY AND PLANNING

OFFICE OF LAND USE POLICY AND PLANNING ADMINISTRATION

SEC. 301. (a) There is established in the Department of the Interior the Office of Land Use Policy and Planning Administration (hereinafter in this Act referred to as the "Office").

(b) The Office shall have a Director who shall be appointed by the President and shall be compensated at the rate provided for level V of the Executive Schedule Pay Rates (5 U.S.C. 5315), and such other officers and employees as may be required. The Director shall have such duties and responsibilities as the Secretary of the Interior may assign.

(c) The Secretary shall, through the Office—

(1) develop and maintain a Federal Land Use Information and Data Center, with such regional branches as the Secretary may deem appropriate, which has on file such information pertaining to land use palnning and management as the Secretary deems appropriate and useful;

(2) cooperate with the States, local governments, and interstate agencies in the development of standard methods and classifications for the collection of land use data;

(3) make the information maintained at the Data Center available to Federal, interstate, State, and local agencies involved in land use planning and to the public;

(4) consult with other officials of the Federal Government responsible for the administration of Federal land use planning assistance programs to States, their political subdivisions, and other eligible agencies in order to coordinate such programs;

(5) administer the grant program established under title II; and

(6) provide administrative support for the National Land Use Policy and Planning Board established by section 303.

STUDIES OF REGIONAL COORDINATION AND PLANNING GRANTS FOR LANDS HELD IN TRUST

SEC. 302. (a) The Director is authorized and directed to investigate and study the need for and form of regional Federal-State-local land use planning coordination councils. The Director shall identify and define those areas of the Nation that have similar ecological, physical, and social characteristics which affect land use planning in such region. In addition, the Director shall formulate a procedure for coordinating land use planning in a region by the several Federal, State, and local governmental departments and agencies, as well as private entities, engaged in activities which affect land use planning and for ensuring that those citizens interested in the management and planning of land use have an opportunity to participate in the coordination and planning process within the region.

(b) The Director is authorized and directed to investigate and study the need for and the form of a grant program providing for land use planning on lands held in trust by the Federal Government for the benefit of Indians, Aleuts, and Eskimos. In determining the need for such a program, the Director shall identify

and describe the lands and their characteristics, and compile data relating to the resources and the mode of life of the inhabitants. In considering the form of a grant program, the Director shall formulate a procedure for administering a program applicable to such lands, embodying, insofar as is practicable, provisions similar to those contained in title II.

(c) The Director shall report to the Secretary and to the Congress the results of the investigations and studies conducted under this section, along with his recommendations, not later than three years after the date of enactment of this Act.

NATIONAL LAND USE POLICY AND PLANNING BOARD

SEC. 303. (a) There is established the National Land Use Policy and Planning Board (hereinafter in this Act referred to as the "Board").

(b) (1) The Board shall be composed of the Director who shall serve as Chairman, and the land use policy coordinators appointed under section 304.

(2) The Director shall request representatives of other Federal departments and agencies to participate in the proceedings of the Board when matters affecting their responsibilities are under consideration.

(c) The Board shall meet regularly at such times as the Chairman may direct and shall—

(1) provide the Secretary and the Director with information and advice concerning the relationship of national land use policy to the programs of the departments and agencies represented on the Board;

(2) assist and advise the Secretary in drafting rules and regulations to carry out the provisions of this Act, and in coordinating the review of proposed rules and regulations with respect to the management of public lands among the Federal agencies;

(3) assist in coordinating the continuing review of State land use planning processes (as they are developed) by the several Federal agencies;

(4) exert every effort to assure the development of consistent land use plans by the several public land management agencies under section 403;

(5) provide advice on such land use policy matters as the Secretary may refer to the Board for its consideration; and

(6) submit reports, at least annually, to the Secretary on land use policy matters which may be referred to the Board by the heads of Federal departments and agencies through their representatives on the Board.

LAND USE POLICY COORDINATORS

SEC. 304. (a) The Secretary of Agriculture; the Secretary of Commerce; the Secretary of Health, Education, and Welfare; the Secretary of Housing and Urban Development; the Secretary of Transportation; the Secretary of Defense; Director of the Water Resources Council; and the Administrator of the Environmental Protection Agency shall each appoint within his department or agency a land use policy coordinator who shall be appointed subject to the provisions of title 5 of the United States Code, governing appointments in the competitive service, and shall be paid compensation at a rate established by the Civil Service Commission, but not lower than the basic rate of compensation established for grade 15 of the General Schedule. The coordinator shall not be assigned any duties which are unrelated to the administration of national land use planning policy, except temporary housekeeping or training duties.

(b) The coordinator shall—

(1) represent his department or agency on the Board established under section 303;

(2) assist in the coordination and preparation within his department or agency of comments on rules and regulations proposed for promulgation by the Secretary pursuant to this Act, and State comprehensive land use planning processes being reviewed under section 303;

(3) assist in the dissemination to the public of policy information relating to land use planning and in the implementation within his department or agency of policies and procedures developed pursuant to this Act; and

(4) perform such other duties regarding the administration of national land use planning policy as the head of his department or agency may direct; and, in the case of the coordinator appointed by the Secretary of Housing and Urban Development, ascertain whether a State's comprehensive land use planning process is consistent with those programs administered by the Secretary of Housing and Urban Development on which the process has a direct and immediate impact.

RESOLUTION OF CONFLICTS

SEC. 305. Federal projects and activities on non-Federal lands significantly affecting land use shall be consistent with State land use controls developed pursuant to section 201(c)(7) except in cases of overriding national interest. The head of each Federal department and agency shall, as a part of his planning procedures on programs involving a major land use activity, consult with the Director for the purpose of determining whether the proposed activity will conflict with the activities of other Federal, State, or local agencies. In the event a conflict exists, the matter shall be reported to the Secretary. If the conflict is not resolved by the departments or agencies involved within 90 days after such report is filed, the Secretary shall investigate the conflict and report his findings, along with his recommendations concerning the proper resolution of the conflict, to the department or agency involved, to the President, to the Congress, and, if State land use planning is involved, to the State agency responsible for land use planning and enforcement in the State concerned, and any other State or local agency involved.

DEPARTMENTAL ADVISORY COMMITTEES

SEC. 306. (a) There are established three National Land Use Advisory Committees, one for the Department of Agriculture, one for the Department of the Interior, and one for the other departments and agencies of the Federal Government specified in subsection (c)(2).

(b) Each Committee shall advise and counsel the head of the department or agency for which it was established—

(1) in the case of a public land management agency, with respect to the development of the land use plan required under section 403, including all aspects of the problems related to the management of public lands under its jurisdiction and on each proposed rule relating to public land management responsibilities of the head of such department or agency;

(2) on those activities of such department or agency having a substantial impact on land use planning; and

(3) on such other matters relating to public land management and land use planning that the head of such department or agency may refer to it.

(c)(1) Each Committee shall be composed of twenty-one members appointed according to the provisions of paragraph (2) from among persons who are representative of the various major citizens' interests concerning the problems relating to land use planning or the management of the public lands. A vacancy in a Committee shall be filled in the same manner in which the original appointment was made.

(2) The members of the Committee established for the Department of the Interior shall be appointed by the Secretary of the Interior; the members of the Committee established for the Department of Agriculture shall be appointed by the Secretary of Agriculture. The Secretary of Defense, the Secretary of Transportation, the Secretary of Health, Education, and Welfare, the Secretary of Housing and Urban Development, the Secretary of Commerce, the Commissioner of the Atomic Energy Commission, and the Administrator of the Environmental Protection Agency shall each nominate five persons from which the President shall appoint the members of the Committee established for those departments and agencies.

(d)(1) Except as provided in paragraphs (2) and (3), members shall be appointed for terms of four years.

(2) Of the members first appointed six shall be appointed for terms of one year; five shall be appointed for terms of two years; five shall be appointed for terms of three years; and five shall be appointed for terms of four years, as designated by the Secretary making the appointment or the President, as the case may be.

(3) Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

(e)(1) Except as provided in paragraph (2), members of a Committee shall serve without pay.

(2) While away from their homes or regular places of business in the performance of services for a Committee, members of a Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

(f) The Chairman of a Committee shall be designated by the members and shall serve for a one-year term.

(g) A Committee shall meet at least four times during each calendar year, at the call of the Chairman.

(h) Each Committee may secure directly from any department or agency of the United States information necessary to enable it to carry out its responsibilities under this title. Upon request of the Chairman or Vice Chairman of a Committee, the head of such department or agency shall furnish such information to such Committee.

(i) The Administrator of General Services shall provide to each Committee on a reimbursable basis such administrative support services as such Committee may request.

LOCAL ADVISORY COUNCILS

SEC. 307. (a) The head of each regional, State, district, or other local public land management agency is authorized and encouraged to establish for such region, State, district, or locality an advisory council of not less than ten and not more than fifteen members appointed by him from among persons who are representative of the various major citizens' interests concerning the problems relating to land use planning or the management of the public lands located within such region, State, district, or locality. Appointments shall be made in accordance with rules prescribed by the head of the department of which such agency is a unit.

(b) Each member of an advisory council shall be appointed for a term of four years except that one-half of the members first appointed shall be appointed for terms of two years, as designated by the head of the agency appointing such members.

(c) The members of an advisory council shall select a chairman who shall serve for a term of one year.

(d) Each advisory council shall meet at least twice a year and no meeting shall be held unless the head of the agency which established such council has authorized such meeting, except that if no meeting has been held for a period of six months the chairman of an advisory council may call a meeting without such approval.

(e) Members of advisory councils shall serve without pay.

(f) An advisory council shall furnish advice to the head of the region, State, district, or other local public land management agency who established such council with respect to the land use planning, classification, retention, management, and disposal of the public lands administered by such agency and located within such region, State, district, or locality and such other matters as may be referred to it.

(g) For the purpose of this section, the term "each regional, State, district, or other local public land management agency" means—

(1) with respect to the Department of Agriculture, a region of the National Forest Service and a national forest; and

(2) with respect to the Department of the Interior, a national park, a wildlife refuge, and a State or district entity of the Bureau of Land Management.

BIENNIAL REPORT

SEC. 308. The Secretary, with the assistance of the Director and Board, shall prepare and submit a report biennially to the President and the Congress on land resources, uses of land, and current and emerging problems of land use.

UTILIZATION OF PERSONNEL

SEC. 309. Upon request of the Secretary, the head of any Federal department or agency is authorized (1) to furnish the Director such information as may be necessary for carrying out his functions to the extent it is available to or procurable by such department or agency, and (2) to detail to temporary duty with the Director on a reimbursable basis such personnel within his administrative jurisdiction as the Director requests, each such detail to be without loss of seniority, pay, or other employee status.

TITLE IV—PUBLIC LANDS POLICY AND PLANNING

DECLARATION OF POLICY

SEC. 401. (a) With respect to the public lands, it is the policy of the United States that—

(1) the public lands be retained in Federal ownership unless as a result of the land use planning procedure provided for in this title, it is determined that disposal of a particular parcel, or an interest therein, will achieve a greater benefit for the general public than the retention thereof;

(2) all lands not previously designated for any specific use and all existing classifications of public lands that were effected by executive action before the date of enactment of this Act be reviewed to determine the type of use that would provide the maximum benefit for the general public in accordance with the overall land use planning goals set forth in this Act;

(3) all executive withdrawals, except those withdrawals authorized by the Alaska Native Claims Settlement Act, be reviewed to ascertain that such withdrawals are of sufficient extent, adequately protected from encroachment, and in accordance with the overall land use planning goals set forth in this Act, with a view toward securing a permanent statutory base for those executive withdrawals relating to the National Park System, the National Forest System, and the National Wildlife Refuge System;

(4) the Congress continue to exercise its constitutional authority to withdraw or otherwise designate or dedicate lands for specified purposes and that Congress delineate the extent to which the Executive may withdraw lands without legislative action;

(5) in interpreting statutes and discretionary authority, public land management agencies be required to establish comprehensive rules and regulations after considering the views of the general public; and to restructure adjudication procedures to assure due process, adequate third party participation, objective administrative review of initial decisions, and expeditious decisionmaking; and that judicial review be provided by law;

(6) goals and objectives be established by law as guidelines for public land use planning, and that management be on the basis of multiple use and sustained yield unless otherwise specified by law;

(7) the public lands be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, and archeological values; that will preserve and protect certain lands in their natural condition; that will reconcile the competing demands on public lands; that will provide habitat for fish and wildlife; and that will provide for outdoor recreation;

(8) the United States receive fair market value for the use of the public lands and their resources, except that monetary payment need not represent fair market value where Congress has identified public benefits from the use of public lands and resources that offset the need to return fair market value to the United States; and the existing public right to enter without charge public lands and waters for sightseeing, hiking, picnicking, fishing, boating, camping, and related noncommercial recreational activities not be affected by this Act;

(9) the lands and their resources that are made available for use be made available under a system that provides for equitable compensation if the use is interrupted during the period for which such use is permitted;

(10) an equitable system be devised to compensate State and local governments for burdens borne by them by reason of the tax immunity of the Federal lands located within the boundaries of such governmental units, taking into account all relevant factors and recognizing that unique situations should be treated separately according to the equities of the situation;

(11) whenever the public lands are to be managed to accomplish, indirectly, public policy objectives unrelated to protection or development of the public lands, the purpose to be achieved and the authority therefor should be provided expressly by statute;

(12) policies concerning the administration of similar land programs by various public land management agencies to the maximum extent feasible be similar;

(13) uniform procedures for the disposal of public land, acquisition of non-Federal land for public purposes, and the exchange of such lands be established by statute, requiring each disposal, acquisition, and exchange to be consistent with the prescribed mission of the public land management agency involved, and reserving to Congress disposals, acquisitions, and exchanges in excess of a specified dollar or acreage amount;

(14) regulations for the protection of areas of critical environmental concern be promptly developed; and any permit, license, or other authorization to use, occupy, or develop the public lands contain provisions authorizing revocation or suspension of such permit, license, or other authorization upon violation of any regulation issued with respect to the enforcement of this Act or of any applicable State or Federal air, water, or other environmental quality standard;

(15) any person permitted to engage in extractive or other activity likely to entail significant disturbance to or alteration of the public land be required

to have, as a condition of such use, a land reclamation plan and a performance bond guaranteeing such reclamation; and

(16) the public lands shall be administered uniformly as to use and contractual liability conditions except as otherwise provided by specific provisions of law.

(b) The policies of this title are supplemental to and not in derogation of—

(1) the purposes for which the units of the National Park System, the National Forest System, and the National Wildlife Refuge System are established and administered; and

(2) the purposes for which public lands are administered by other agencies and departments of the United States, other than the Departments of Agriculture and the Interior, in the fulfillment of their statutory obligations.

INVENTORY; IDENTIFICATION

SEC. 402. (a) Each public land management agency head shall prepare and maintain on a continuing basis an inventory of all public lands and their resources under his jurisdiction giving priority to areas of critical environmental concern. This inventory shall reflect changes in conditions and in identifications of resource values. In the course of making his inventory, each agency head shall give emphasis to the identification of those lands under his jurisdiction which are subject to a withdrawal or reservation, including a detailed description of the location, size, duration, and purpose of such withdrawal or reservation.

(b) Each agency head shall ascertain the boundaries of the public lands under his jurisdiction, provide adequate and appropriate means of public identification thereof (including signs and maps), and shall file a description of said lands with the Office of Land Use Policy and Planning Administration.

PLANNING PUBLIC LAND USE; MANAGEMENT DIRECTIVES

SEC. 403. (a) Each public land management agency head shall develop, maintain, and, when appropriate revise, land use plans in accordance with rules providing for public involvement, with the objective of classifying all the land administered by such agency head in order to obtain the maximum benefit for the general public. Land use plans shall be developed for all public lands regardless of whether such lands have previously been classified, withdrawn, set aside, or otherwise designated for one or more uses.

(b)(1) When a land use plan requires classification of a tract of land in excess of twenty-five thousand acres for either (A) sale or other disposal under applicable law or (B) management, when the action will bar or exclude from the tract, for a period of time longer than one year, one or more of the multiple uses authorized under this Act, notice of such classification shall be filed with the Interior and Insular Affairs Committees of the Senate and the House of Representatives. Such classification shall be effective at the end of the first period of sixty calendar days of continuous session of Congress after the date on which such notice is filed unless, between the date of filing and the end of the sixty-day period, either committee passes a resolution stating in substance that that Committee does not favor such classification.

(2) For the purpose of paragraph (1) of this subsection—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the sixty-day period.

(c) With respect to land designated for retention in Federal ownership, each agency head shall manage such land under principles of multiple use and sustained yield, in accordance with the land use plan developed by him under section 403, recognizing that where land chiefly valuable for a specific use has been classified for such specific use in accordance with this Act, the agency head shall manage the land to provide for such specific use while authorizing other compatible uses not expressly prohibited; except where such land has been dedicated to a specific use according to any other provision of law, the agency head shall manage the land in accordance with such law.

(d)(1) Except as otherwise authorized by law, lands may be designated for disposal under a land use plan only if the agency head determines that such lands will serve the maximum benefit for the general public in non-Federal ownership. An agency head may make such a determination only if he finds that—

(A) the land involved is isolated land difficult to manage as part of any agency's responsibility in the area; or

(B) having been acquired for a specific use, the land is no longer required for that or any other Federal use; or

(C) the land is best suited for the use or the production of resources under non-Federal ownership.

(2) Where public lands, pursuant to paragraph (1), have been designated for disposal, disposal shall be made only in accordance with other provisions of law, and shall not be accomplished unless and until the agency head has received assurances satisfactory to him that such transfer will not cause significant adverse impact upon the environment.

(e) In the development of a land use plan, each agency head shall—

(1) use a systematic interdisciplinary approach to achieve integrated consideration of physical, biological, economic, and social sciences;

(2) consider present and potential uses of the public lands, and compare demands for public land resources with the possibilities for meeting such demands under alternative methods of management and use;

(3) consider the communities and users dependent on the public lands and resources; the impact on State and local governments; the efficiency of resource use and sustained yield of renewable resources; and the regional economic growth;

(4) indicate the manner in which various objectives of land use are to be satisfied and the rationale for selecting a particlar course of action;

(5) classify lands for protection of the following elements of environmental quality among others: water, air, biosystem maintenance, and quality of experience; and

(6) adhere to the applicable Federal, State, and local environmental quality control laws.

(f) The development and the revision of land use plans shall be consistent with the terms and conditions of this Act, including coordination with the land use plans of State and local governments and other Federal agencies. Such coordination shall be accomplished in accordance with the procedures of title III and such regional coordination councils as may be established pursuant to the investigation and study provided for in section 302, with every effort being made to assure consistent and coordinated planning and management at the regional and local levels of administration as well as at the national level. To the extent practicable, public land shall be classified for use consistent with State or local land use plans.

(g) Involvement of the public in the land use planning process shall include consultation, in accordance with rules promulgated by the agency head, with persons interested in the retention, use, management, or disposal of public lands, with representatives of the State and local governments within whose boundaries public lands are situated, with the departmental advisory committees, the State, regional, and district councils, and such other procedures as may be required to assure public involvement in a particular instance, including public hearings.

STATUTORY BASE FOR EXECUTIVE WITHDRAWALS

SEC. 404. (a) In order to provide a secure statutory base for executive withdrawals in existence on the date of enactment of this Act, including withdrawals relating to the National Park System, the National Forest System, the National Wildlife Refuge System, and the Department of Defense, the Secretary is authorized and directed to review all such withdrawals, except those withdrawals made under section 17(d)(2) of the Alaska Native Claims Settlement Act, during the ten-year period beginning on such date of enactment, and from time to time during such period, to recommend to the Congress such legislative action as he deems necessary and appropriate to carry out the purposes of each withdrawal and to attain the overall land use planning goals set forth in this Act.

(b) Each agency head administering executive withdrawals is authorized and directed to provide the Secretary with such information concerning such withdrawals administered by him as he deems necessary for the Secretary to make any recommendation required of him under this section, as well as such additional information as the Secretary may request with respect to such withdrawals.

(c) Upon receipt of a recommendation from the Secretary, the Congress shall consider legislation to secure a statutory base for the withdrawal involved for such length of time, including permanent dedication, as shall be required to accomplish the purposes for which such withdrawal was made.

(d) Nothing in this section shall be construed to revoke any executive withdrawal existing on the date of enactment of this Act. Such withdrawals shall

remain in effect until revoked by the Secretary or until they expire, but they shall be extended or modified only in accordance with the provisions of this section except that the Secretary shall not revoke any withdrawal relating to the National Forest System without first obtaining the consent of the Secretary of Agriculture.

WITHDRAWALS

SEC. 405. (a) The Secretary is authorized to withdraw from management under a land use plan a parcel of the public lands for any one project or facility not exceeding twenty-five thousand acres in the aggregate—

(1) for a period of not more than ten years, for a nonresource use by any Federal agency or department other than the Department of the Interior;

(2) for a period of not more than five years, to preserve such parcel for a specific use then under consideration by the Congress; or

(3) for a period of not more than five years, in those cases where the Secretary determines, according to the procedure specified in subsection (b), that emergency action must be taken in order to preserve valuable resources that would otherwise be lost.

All withdrawals made under this subsection shall be reviewed by the Secretary at the end of the withdrawal period, and may be extended for another five- or ten-year period, as the case may be, only if the Secretary determines that the purpose for which the withdrawal was first made requires the extension. Thereafter a similar review shall be made at the end of each extension period.

(b)(1) When the Secretary determines that an emergency situation exists with respect to a parcel of the public lands administered by him and that extraordinary measures must be taken to preserve values that would otherwise be lost pending administrative or legislative action, he may order an emergency withdrawal with respect to such parcel by filing notice of such emergency withdrawal with the Committees on Interior and Insular Affairs of the Senate and the House of Representatives. Such emergency withdrawal shall be effective at the end of the first period of sixty calendar days of continuous session of Congress after the date on which such notice is filed unless, between the date of filing and the end of the sixty-day period, either Committee passes a resolution stating in substance that that Committee does not favor such emergency withdrawal.

(2) For the purpose of paragraph (1) of this subsection—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the sixty-day period.

(3) Along with the notice filed by the Secretary under paragraph (1), he shall furnish to the Committees—

(A) a clear explanation of the proposed use of the public land involved;

(B) an inventory and evaluation of the current natural resource uses and values of the site and adjacent public and nonpublic land and how it appears they will be affected by the proposed action, including particularly aspects of use that might cause degradation of the environment;

(C) an identification of present users of the public land involved, and how they will be affected by the proposed action;

(D) an analysis of the manner in which existing and potential resource uses and users are incompatible with or in conflict with the proposed use, together with a statement of the provisions to be made for continuation or termination of existing uses;

(E) an analysis of the manner in which such public lands will be used in relation to the specific requirements for the proposed use;

(F) a statement as to whether any suitable alternate sites are available (including cost estimates) for the proposed use or for uses a proposed withdrawal would displace;

(G) a statement of the consultation which has been or will be had with other Federal agencies, with regional, State, and local government bodies, and with other appropriate individuals and groups;

(H) a statement indicating the effect of the proposed actions, if any, on State and local government interests and the regional economy;

(I) a statement of the expected length of time needed for the withdrawal;

(J) the time and place of hearings and of other public involvement concerning such proposed withdrawal; and

(K) the place where the records on the proposed withdrawal can be examined by interested parties.

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(c) Withdrawals of the public lands not authorized in subsection (a) or in sections 11(a)(3) and 14(h) of the Alaska Native Claims Settlement Act shall be made only by the Congress.

(d) Notwithstanding section 553(a)(2) of title 5 of the United States Code (relating to administrative procedures) all new withdrawals made by the Secretary under this section (except an emergency withdrawal made under subsection (a)(3)) shall be promulgated on the record after an opportunity for an agency hearing.

ENFORCEMENT AUTHORITY

SEC. 406. (a) Any violation of regulations issued by an agency head with respect to the public lands administered by him and property located thereon shall be punishable by a fine of not more than $1,000 or imprisonment for not more than one year, or both. Any person charged with a violation of such regulations may be tried and sentenced by any United States magistrate designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions and limitations as provided for in section 3401 of title 18 of the United States Code.

(b) At the request of the agency head, the Attorney General may institute a civil action in any United States district court or the highest court in a United States territory for an injunction or other appropriate order to prevent any person from utilizing the public lands in violation of regulations issued under this Act.

(c) Each agency head may designate and authorize any employee of his agency to make arrests on lands administered by such agency without warrant for any misdemeanor or violation of any law or regulation committee in his presence or view, or for any felony if the arresting officer has probable cause to believe that the person arrested has committed or is committing such felony and a delay in obtaining a warrant would jeopardize the possibility of his apprehension. Such authorized employee may execute any warrant or other process issued by a court or officer of competent jurisdiction for the enforcement of the provisions of any Federal law or regulation. Such authorized employee, while engaged in carrying out his official duties, may carry firearms as are authorized by the agency head.

(d) Upon the sworn information by a competent person, any United States magistrate or court of competent jurisdiction may issue process for the arrest of any person charged with a violation of law or regulations on the public lands. Nothing herein shall be construed as preventing the arrest by any officer of the United States, without process, of any person taken in the act of violating a law or regulation.

TITLE V—APPROPRIATION AUTHORIZATION, REPEAL OF PRIOR LAWS, AND DEFINITIONS

APPROPRIATION AUTHORIZATION

SEC. 501. There are authorized to be appropriated to the Secretary of the Interior for grants to the States under title II not more than $54,000,000 for the fiscal year ending on June 30, 1974, not more than $45,000,000 for each of the two immediately succeeding fiscal years, and not more than $30,000,000 for each of the two fiscal years thereafter.

REPEAL OF PRIOR LAWS

SEC. 502. (a) Effective July 1, 1974, all express or implied appropriation authorizations for administration of the public lands that contain no dollar limitations are repealed, and appropriations to administer the public lands shall not exceed the amounts specified in appropriation authorization Acts hereafter enacted or in presently existing Acts that authorize the appropriation of specified amounts. The Secretary of each executive department which has public land management responsibilities shall submit to the Congress recommendations for legislation that will provide by statute the policies, scope, limitations, and guidelines for such administration in order that policies heretofore adopted by administrative action may have a proper legislative base.

(b) Subject to valid existing rights the following statutes or parts of statutes are repealed as of December 31, 1974:

1.—HOMESTEAD LAWS

Act of—	Sections	Statute	43 U.S.C.
Revised Statutes 2288–2298, 2300–2302, 2304, 2311			161–164, 169, 171, 173–175, 183, 184, 191, 201, 211, 239, 254, 255, 271, 272, 274, 277, 278.
Mar. 3, 1875	15	18:420 ch. 131	189.
June 3, 1878		20:91	253.
Mar. 3, 1879		20:472 ch. 191	204.
Mar. 3, 1879		20:472 ch. 192	251.
July 1, 1879		21:46	205.
July 1, 1879	1	21:48	235.
May 14, 1880		21:140	166, 185, 202, 223.
June 8, 1880		21:166	172.
June 16, 1880		21:287	263.
July 4, 1884—last paragraph of section 1 only		23:96	190.
May 6, 1886		24:22	206.
Mar. 2, 1889	1, 3, 4, 6, 7	25:854	214, 234, 252, 681, 700.
Aug. 30, 1890—The following words of section 1 only: "No person who shall after the passage of this act, enter upon any of the public lands with a view to occupation, entry or settlement under any of the land laws shall be permitted to acquire title to more than three hundred and twenty acres in the aggregate, under all of said laws, but this limitation shall not operate to curtail the right of any person who has heretofore made entry of settlement on the public lands, or whose occupation, entry, or settlement is validated by this Act."		26:391	212.
Sept. 30, 1890		26:684	261.
Mar. 3, 1893—The following words only: "And provided further, That where soldier's additional homestead entries have been made or initiated upon certificate of the Commissioner of the General Land Office of the right to make such entry, and there is no adverse claimant, and such certificate is found erroneous or invalid for any cause, the purchaser thereunder, on making proof of such purchase, may perfect his title by payment of the Government price for the land: but no person shall be permitted to acquire more than one hundred and sixty acres of public land through the location of any such certificate."		27:593	275, 1076.
* * * * * * *			
"Provided, That the President is hereby authorized by proclamation to withhold from sale and grant for public use to the municipal corporation in which the same is situated all or any portion of any abandoned military reservation not exceeding twenty acres in one place."			
Aug. 18, 1894—Last paragraph of section headed "Surveying the Public Lands" only.		28:397	276.
Mar. 2, 1895		28:774	176.
June 16, 1898		30:475 ch. 458	240.
May 17, 1900	1	31:179	179.
June 5, 1900	2, 3	31:269	188, 217.
Jan. 26, 1901		31:740	180.
May 22, 1902	2	32:203 ch. 821	187b.
June 13, 1902		32:384 ch. 1080	203.
Apr. 28, 1904		33:527 ch. 1776	213.
Apr. 28, 1904	2, 3	33:547	224.
Feb. 19, 1909		35:639	218.
June 17, 1910		36:531 ch. 298	219.
Mar. 4, 1913—Last paragraph of section 1 headed "Public Land Service" only.		37:925	256.
Apr. 6, 1914		38:312	167.
Aug. 22, 1914		38:704 ch. 270	231.
Sept. 5, 1914		38:712	182.
Oct. 17, 1914		38:740	168.
Oct. 22, 1914		38:766 ch. 335	170.
Mar. 4, 1915	1	38:1162	220.
July 3, 1916		39:341 ch. 214	232.
Aug. 21, 1916		39:518 ch. 361	207, 107,5.
Dec. 29, 1916	1–9, 11	39:862	291–299 301.
Feb. 20, 1917		39:925	215.
Dec. 20, 1917		40:430 ch. 6	236.
Feb. 25, 1919		40:1161 ch. 37	272a.
July 24, 1919—Next to last paragraph only		41:271	237.
Sept. 29, 1919		41:228 ch. 64	288.
Feb. 14, 1920		41:434	186.
Mar. 1, 1921		41:1193	167.
Mar. 1, 1921		41:1202 ch. 102	238, 331.
Mar. 4, 1921	1	41:1433 ch. 162	216.
Apr. 6, 1922		42:491 ch. 122	273.
Mar. 4, 1923		42:1445 ch. 245	222, 302.
June 3, 1924		43:357 ch. 240	208.
Feb. 25, 1925		43:931 ch. 326	187.
June 8, 1926		44:709 ch. 501	177.

1.—HOMESTEAD LAWS

Act of—	Sections	Statute	43 U.S.C.
Apr. 7, 1930		46:144 ch. 108	243.
Feb. 23, 1932		47:53 ch. 52	178.
Mar. 2, 1932		47:59	237a.
May 13, 1932		47:153 ch. 178	256a.
Mar. 1, 1933—The following words of section 1 only "Provided, That no further allotments of lands to Indians on the public domain shall be made in San Juan County. Utah, nor shall further Indian homestead be made in said county under the Act of July 4, 1884 (23 Stat. 96; U.S.C., title 43, sec. 190)".		47:1418 ch. 160	190a.
Mar. 3, 1933		47:1424	243a.
May 21, 1934		48:787 ch. 320	237b.
June 21, 1934		48:1185 ch. 690	187a.
May 22, 1935		49:286	237c.
Aug. 19 1935		49:659 ch. 560	237d.
Aug. 27, 1935		49:909 ch. 770	256b.
Apr. 20, 1936		49:1235 ch. 239	237e.
Aug. 28, 1937	3	50:575	1181c.
Sept. 27, 1944		58:747 ch. 421	279–284.
June 22, 1948		62:576	209, 210.
July 30, 1956		70:715, 716 ch. 778.	237 f, g, h, 336a–d.

2.—SALE AND DISPOSAL LAWS

Revised Statutes: 2354, 2355, 2357, 2361–2363, 2365, 2366, 2368–2372, 2374–2376.			673, 674, 676, 678, 688–699.
June 15, 1880	3, 4	21:238	679, 680.
Mar. 3, 1891	9, 16	20:1099, 1101	671, 728.
Mar. 18, 1898		30:418 ch. 344	675.
Mar. 1, 1907		34:1052 ch. 2286.	682.

3.—TOWN SITE RESERVATION AND SALE

Revised Statutes: 2380–2384, 2386–2389, 2391–2394			711–715, 717–721, 722–724.
Mar. 3, 1877	1, 3, 4	19:392 ch. 113	725–727.
Mar. 3, 1891	16	26:1101	728.
Feb. 9, 1903		32:820 ch. 531	731.
July 9, 1914		38:454	730.

4.—DRAINAGE UNDER STATE LAWS

May 20, 1908	1–7	35:169 ch. 181	1021–1027.
Mar. 3, 1919		40:1321 ch. 113	1028.
Jan. 17, 1920		41:392 ch. 47	1041–1048.
May 1, 1958		72:99	1029–1034.

5.—ABANDONED MILITARY RESERVATIONS

July 5, 1884	5	23:104 ch. 214	1074.
Aug. 23, 1894		28:491 ch. 314	1077, 1078, 1081.
Feb. 15, 1895		28:664	1080.
Feb. 11, 1903		32:822 ch. 543	1079.

6.—PUBLIC LANDS IN OKLAHOMA

May 2, 1890—Last paragraph of section 18 and sections 20–24, 27 only		26:89–93	1091–1097.
May 14, 1890		26:109	1111–1117.
Mar. 3, 1891	16, 37	26:1026	1098, 1099.
Sept. 1, 1893		28:11	1118.
May 11, 1896		29:116	1119.
Jan. 18, 1897	1, 2, 3, 7	29:490	1131–1134.
Aug. 7, 1946		60:872 ch. 772	1100–1101.
Aug. 3, 1955		69:445 ch. 498	1102, 1102a–g.

7.—PATENTS FOR PRIVATE CLAIMS

Revised Statutes: 2447–2448			1151, 1152.
June 6, 1874	1, 2	18:62, ch. 223	1153, 1154.
Jan. 28, 1879		20:274	1155.
May 30, 1894		28:84 ch. 87	1156.

8.—SALES OF ISOLATED TRACTS

Act of—	Sections	Statute	43 U.S.C.
Feb. 4, 1919		40:1055	1172.
May 10, 1920		41:595 ch. 178	1173.
Aug. 11, 1921		42:159 ch. 62	1175.
May 19, 1926		44:566 ch. 337	1176.
Apr. 24, 1928		45:457 ch. 428	1171a.
May 23, 1930		46:377 ch. 313	1171b.
Feb. 14, 1931		46:1105 ch. 170	1177.

9.—EVIDENCE OF TITLE

Revised Statutes 2471–2473			1191–1193

10.—LANDS IN ALASKA

Mar. 3, 1891	11, 13	26:1099	732, 687(a)–6.
May 14, 1898		30:413	687a, 687a–2–687a–5, 270, 270–4.
Mar. 12, 1914—fourth paragraph of section 1 only		38:305	
July 8, 1916		39:352	270–8–270–10, 270–14.
Oct. 28, 1921		42:208	270–16.
Mar. 8, 1922		42:415	270–11–270–13.
Apr. 13, 1926		44:243	270–15, 270–17.
May 25, 1926		44:629	733–736.
July 24, 1947		61:414 ch. 305	733.
Feb. 26, 1948		62:35 ch. 72	737.
Apr. 29, 1950		64:95	270–5–270–7, 687a–1.

11.—PITTMAN ACT GRANTS

Sept. 22, 1922		42:1012	356.

12.—INDIAN ALLOTMENTS

Act of—	Sections	Statute	25 U.S.C.
Feb. 8, 1887		24:389	334.
Feb. 28, 1891		26:795	336.

(c) Except with respect to the authority to withdraw public lands specified in sections 11(a)(3) and 14(h) of the Alaska Native Claims Settlement Act, on and after the date of enactment of this Act, all authority to withdraw or reserve public lands, whether granted by statute, acquiesence, or implication, is repealed and all withdrawals shall be made only under the provisions of this Act.

(d) Nothing in this Act shall be construed—

(1) to expand or diminish Federal, interstate, or State jurisdiction, responsibility, or rights in the field of land and water resources planning, development, or control; nor to displace, supersede, limit, or modify any interstate compact, or the jurisdiction or responsibility of any legally established joint or common agency of two or more States, of a State and the Federal Government, or a region and the Federal Government; nor to limit the authority of Congress to authorize and fund projects;

(2) to change or otherwise affect the authority or responsibility of any Federal official in the discharge of the duties of his office except as required to carry out the provisions of this Act; or

(3) as superseding, modifying, or repealing existing laws applicable to the various Federal departments and agencies which are authorized to develop or participate in the development of land and water resources or to exercise licensing or regulatory functions in relation thereto, except as required to carry out the provisions of this Act; nor to affect the jurisdiction, powers, or prerogatives of the International Joint Commission, United States and Canada, the Permanent Engineering Board, and the United States operating entity or entities established pursuant to the Columbia River Basin Treaty, signed at Washington, January 17, 1961, or the International Boundary and Water Commission, United States and Mexico.

DEFINITIONS

SEC. 503. As used in this Act—

(a) The term "public land management agency" means each authority of the Government of the United States other than the Congress, the courts, possessions, and territories of the United States, the District of Columbia, or the Commonwealth of Puerto Rico that has or exercises jurisdiction over the management of the public lands of the United States.

(b) The term "agency head" means the head of each public land management agency.

(c) The term "areas of critical environmental concern" means areas where uncontrolled use or development could result in irreversible damage to important historic, cultural, or esthetic values, or natural systems or processes, or life and safety as a result of natural hazards. Such areas shall include:

(1) coastal zones and estuaries;

(2) shorelands and flood plains of rivers, lakes, and streams;

(3) rare or valuable ecosystems;

(4) regions of unstable soils or high seismic activities;

(5) agricultural, grazing, and watershed lands that have significant economic and ecological value;

(6) scenic or historic areas; and

(7) such additional areas of similar valuable or hazardous characteristics as the State determines to be of critical environmental concern.

(d) The term "coastal zones" means the land, waters, and lands beneath the waters in close proximity to the coastline (including the Great Lakes) and strongly influenced by each other, and includes areas influenced or affected by water from an estuary such as, but not limited to, salt marshes, coastal and intertidal areas, sounds, embayments, harbors, lagoons, inshore waters, channels, and all other coastal wetlands.

(e) The term "estuary" means the part of the mouth of a river or stream or other body of water having unimpaired natural connection with the open sea and within which the sea water is measurably diluted with fresh water derived from land drainage.

(f) The term "classify" means to determine, under a land use plan, the use or combination of uses of a given parcel of public land that will result in the maximum benefit for the general public, and to exclude uses that are detrimental to the maximum benefit for the general public.

(g) The term "development and land use of regional benefit" includes private development and land use for which there is a demonstrable need affecting the interests of constituents of more than one local government which outweighs the benefits of any applicable restrictive or exclusionary local regulations.

(h) The term "key facilities" means facilities open to the public which tend to induce development and land use of more than local impact including but not limited to the following:

(1) any airport designed to serve regular, scheduled air passenger service, and other airports of greater than local significance;

(2) interchanges between the Interstate Highway System and frontage access streets or highways; major interchanges between other limited access highways and frontage access streets or highways; frontage access highways of State or regional significance; and

(3) major recreational lands and facilities.

(i) The term "large scale development" means private development which, because of its magnitude or the magnitude of its effect on the surrounding environment, is likely to present issues of State or regional significance in the judgment of the State, which should consider, among other things, the amount of pedestrian or vehicular traffic likely to be generated, the number of persons likely to be present, the potential for creating environmental problems such as air or water pollution or noise, the size of the site to be occupied, and the likelihood that additional or subsidiary development will be generated.

(j) The term "interstate agency" means a governmental agency established pursuant to law to which two or more States are a party and which carries out or is authorized to carry out programs related to land use planning or regulation, including agencies established by interstate and Federal-State compacts, and river basin commissions established pursuant to the Water Resources Planning Act of 1965 (42 U.S.C. 1962–1962d–3).

(k) The term "multiple use" means use of the various surface and subsurface resources in a balanced combination that will best meet the needs of the American people now and in future generations; the judicious use of the land resources in

units large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; recognition that some land will be used for less than all of the resources; harmonious and coordinated use of the various resources, in a manner that does not permanently impair the productivity or environment of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output. The term includes but is not limited to the following uses: domestic livestock grazing, fish and wildlife development and utilization, mineral production, outdoor recreation, timber production, watershed protection, and various occupancy uses.

(l) The term "nonresource use" means a use, other than the multiple uses of the public lands, by such agencies as the Department of Defense, Department of Transportation, and the Atomic Energy Commission, generally not compatible with other uses.

(m) The term "public involvement" means the opportunity for participation by citizens of the United States in rulemaking, decisionmaking, and planning with respect to the public lands and the non-Federal lands, including public hearings, advisory mechanisms, and such other procedures as may be necessary to provide public input in a particular instance.

(n) The term "public lands" means any lands owned by the United States without regard to how the United States acquired ownership, and without regard to the agency having responsibility for management thereof, except—

(1) lands acquired by the General Services Administration as sites for public buildings and lands which are governed by the Federal Property and Administrative Services Act of 1949 and related statutes and regulations;

(2) land acquired by reason of default, foreclosure, conveyance in lieu of foreclosure, or similar circumstances, and held to protect or enforce a Federal interest arising under a contract, grant, loan, loan guarantee, or loan insurance agreement, executed pursuant to a Federal assistance program; and

(3) lands held in trust for the benefit of Indians, Aleuts, and Eskimos.

(o) The term "Secretary" means the Secretary of the Interior unless specifically indicated otherwise.

(p) The term "State" means one of the fifty States of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Virgin Islands.

(q) The term "sustained yield" means the management of renewable resources to produce a flow of values that is without impairment of the productivity of the land and that will assure in perpetuity the continued production and availability of renewable resources, all in a manner that is responsive to the present and foreseeable needs of the American people.

(r) The term "withdrawal" means an area of Federal lands which is excluded from management under principles of multiple use in order to protect or favor particular public values in the land, and a method by which public lands have been withheld from settlement, sale, or entry under some or all of the general land laws.

Amend the title so as to read: "A bill to establish a public land policy and to provide guidelines for its administration; to authorize grants to encourage and assist the States in preparing and implementing land use programs; to coordinate Federal programs and policies which have a land use impact; and for other purposes."

INTRODUCTION

Two years ago, the Public Land Law Review Commission submitted its recommendations to the President and the Congress. These recommendations, contained in the Commission report, "One-Third of the Nation's Land," [1] were the result of a comprehensive five-year review authorized by statute in 1964.

Perhaps the most significant chapter in the Commission report was that entitled "Planning Future Public Land Use." The Commission there recommended that Congress should establish policies and goals for the public lands and provide the management agencies with

[1] *One-Third of the Nation's Land: A Report to the President and to the Congress.* The Public Land Law Review Commission, June 1970 (throughout, but particularly pp. 41–65).

authority for carrying out the programs necessary to implement the policies and attain the goals.

Congress was urged to provide for "a continuing, dynamic program of land use planning," so that the public lands could be managed "in a manner that complements uses and patterns of use on other ownership in the locality and the region." Elaborating on this, the Commission further recommended that:

> Land use planning among Federal agencies should be systematically coordinated;
>
> State and local governments should be given an effective role in Federal agency land use planning; Federal land use plans should be developed in consultation with these governments . . . and should conform to State or local zoning to the maximum extent feasible;
>
> Congress should provide additional financial assistance to public land States to facilitate better and more comprehensive land use planning;

and that

> Comprehensive land use planning should be encouraged through regional commissions along the lines of the river basin commissions created under the Water Resources Planning Act of 1965; such commissions should come into existence only with the consent of the States involved, with regional coordination being initiated when possible within the context of existing State and local political boundaries.

The bill (H.R. 7211) being reported by the Committee today will translate into law these and other Commission recommendations as to public land policy. It will form a basis upon which further legislation may be developed, and upon which administrative action may be taken when further legislation is not required. It will also provide a significant beginning for comprehensive land use planning throughout the Nation.

In summary, this bill looks toward land use planning for not only the one-third of the Nation's land under management of the several agencies of the Federal Government, but also for the remaining two-thirds of the Nation's land in non-Federal ownership.

THE THRUST OF H.R. 7211

In the opinion of the Committee, our Nation has gone too long without an overall plan. We have treated symptoms often without considering the causes. Any action taken frequently has been on a piecemeal, ad hoc basis. This was possible when the resources seemed unlimited—although we now know they, in fact, have always had limitation. This seemed acceptable as long as we had under five million population, or under ten, or under twenty. It is now increasingly clear that if we are to provide for between 200 and 300 million people in our land, and also contribute to the well-being of population of other nations, there should be some policy, some direction given to our growth.

Witnesses before the Committee testified to the effect that we ought to have a national growth policy.[2] Many Members of the Committee agree that this would be desirable. But development of such a policy will take time beyond which we should, in the opinion of the Committee, begin a land use planning program. While such a policy may be formulated, the land use planning process can be getting underway.

There is scant consistency in the pattern of land use in the United States. Ownership varies widely. Land use controls are uneven in character and they often are nonexistent or subject to the frequent granting of "variances" (i.e., exceptions are made). One-third of the land is publicly owned. Much of this public land is concentrated in the States west of the 100th meridian, where many counties contain over 50 percent public land. There are many regions where the lands are so intermingled that it would be impossible to engage in a rational land use planning operation without directives not only to the public land management agencies but also to the States. Planning in both instances is overdue.

There is a lack of coordinated effort among the Federal land management agencies and between those agencies and other landowners. Policies differ as to management of forests, for example, depending on whether the trees grow on land under the jurisdiction of the Bureau of Land Management of the Department of the Interior or on land administered as a part of the National Forest System under the Department of Agriculture. Rules, regulations, permits, fees all vary, depending on who the administrator is, even though the lands are similar in character and are all publicly held.

There is a similar absence of coordination between the Federal agencies and the State and local governments and the private individuals who, for example, own and operate commercial establishments bordering national forests and national parks.

Because of this, a major objective of H.R. 7211 is to secure coordination among the Federal agencies and between those agencies and the non-Federal owners and planners. The format of the bill reflects this concern. A grant-in-aid program to encourage and assist States to develop land use planning processes is established in title II. Public land policy declarations and land management authority for the Federal land management agencies are contained in title IV. As a "bridge" between these two titles, title III provides for administration and coordination within the Department of the Interior with respect to both public and nonpublic lands. Title I contains findings and statements of purpose. Title V includes the appropriations authorization, repeal clauses, and definitions.

The Committee believes that title III provisions will provide for more coordination in planning than would be possible if separate programs were authorized in separate bills. At the same time, H.R. 7211 takes away no authority from the several land management agencies. The Forest Service remains responsible for administration of the national forests, for example. Nor does the bill impose Federal authority over private land use or repeal local zoning authority as to nonpublic lands as long as decisions having a substantial impact beyond their jurisdiction are subject to review at the State level.

[2] U.S. Congress, House of Representatives, Committee on Interior and Insular Affairs, Subcommittee on the Environment, Hearings, 92d Cong., 1st sess. on H.R. 4332 and related bills and H.R. 2173 and related bills, September 13 and 14; November 8 and 9, 1971, U.S. Government Printing Office, Washington, D.C., Serial No. 92-22 (p. 271).

H.R. 7211 necessarily distinguishes between requirements imposed as to the public lands and the program authorized with respect to the nonpublic lands. The bill directs the public land management agencies of the Federal Government to develop land use *plans*. It can go that far in the case of the public lands because only one landowner is involved, one who takes his direction from the Congress.

In authorizing grants to assist States in developing land use *planning processes*, including methods to control the use of the non-Federal lands in specified critical areas, H.R. 7211 does not go as far as in the case of the public lands because here there are many landowners involved, unaccustomed to living under the restrictions land use plans may impose. This matter is left to the respective States, but the bill provides incentives to move ahead, with a $204 million grant program over the next five years. It also contains sanctions if the States do not undertake planning processes, by providing for the withholding of Federal highway, airport, and land and water conservation funds.

The Committee anticipates that if the program envisaged under the Act moves smoothly during the five-year period for which appropriations are authorized, additional funds then can be made available. It also is anticipated that additional legislation will be necessary further to implement the public land policy declarations contained in the bill.

BACKGROUND

Reflected throughout this Nation's political, economic, and social history is the traditional concept that land is a commodity to be bought and sold, used and depleted by its owner as he sees fit, with a minimum of governmental involvement or guidance. In the face of rapidly changing land use patterns, this concept instead of being questioned has been altered to fit a situation of limited supply, and governmental controls have been imposed to insure its survival. These controls, usually in the form of locally imposed zoning ordinances and building codes, often have been severely restrictive, and they, in turn, have perpetuated the view that land is a scarce commodity.

Present awareness of the limitation of such controls began to emerge when the narrow concept of land on which the controls were based was questioned. "We abuse land because we regard it as a commodity belonging to us," Aldo Leopold said twenty-five years ago. "When we see land as a community to which we belong, we may begin to use it with love and respect." In the opinion of the Committee, this process of change in traditional land use concept and policy, as mirrored in prevailing institutions and procedures should be stimulated by Federal legislation which would provide financial and technical encouragement to enable States to strengthen their capability in land use decisionmaking.

At the same time, the Federal Government as proprietor and manager should "put its own house in order." H.R. 7211 not only gives United States an opportunity to rethink its management practices on over 761 million acres of public land, but also allows the Federal Government to set an example for land use planning as to the other approximately 1,500 million acres of land. This does not mean that the Committee believes that what is good for the public lands is necessarily a model for every other landowner. However, where the lands are in proximity to one another, or where there is a checkerboard pattern, similar considerations should govern many land use decisions.

LEGISLATIVE HISTORY

There are, of course, forebears of the present bill other than the Public Land Law Review Commission. At the same time that the Commission was accumulating its data, conducting its review, and framing its recommendations, others among planners, and in the State, local, and Federal Governments were formulating their own programs. The present effort in this Committee generally stems from the Commission, however, either directly or indirectly.

By January 1967, the Commission had identified as one of its major research projects a study entitled "Regional and Local Land Use Planning." The study plan was written during the following year and was placed under contract in May 1968. After the study report was completed, the Commission proceeded to develop its tentative positions in August 1969 as reflected in its final recommendations referred to in the first pages of this report.

In January 1970, a member of the Public Land Law Review Commission and Chairman of the Committee on Interior and Insular Affairs of the U.S. Senate introduced S. 3354, the first National Land Use Policy Act. Companion bills were introduced in the House by a former member of the Commission, Representative Rogers C. B. Morton, now Secretary of the Interior, as well as by Representatives Meeds and McCarthy. In June of that year, the Commission report was formally submitted.

After completing its hearings on S. 3354, the Senate bill was extensively modified and reported shortly before the 91st Congress adjourned sine die. As pointed out in supplementary views contained in the Senate report accompanying that bill,[3] there was not time to obtain congressional enactment of the legislation that year, but there was value in reporting the bill "because it calls attention to a great need and provided direction in approaching it." The supplemental statement concluded as follows:

> In the next Congress, we believe our Committee should and will, consider legislation which includes land use planning for all our lands, Federal and State. We believe that such legislation, by providing a concerted foundation for land use planning on lands within both the Federal and State authority will lead to the desired end: an intelligent, comprehensive system for the maximum and best use of all the lands of this country for the long-term benefit of all of the people.

As the present, 92d, Congress got underway, the Senate bill reported out previously was reintroduced in both Houses,[4] and public land policy legislation was prepared for introduction in both Houses.[5] The Administration submitted legislation in related areas [6] and hearings were scheduled.

Preferring their own recommended legislation, departments and agencies of the Executive branch issued negative reports on all bills other than those submitted by the Administration. However, under questioning, the witnesses indicated that many features of the various bills were not objectionable. As far as the national land use planning

[3] U.S.Senate, Report of the Committee on Interior and Insular Affairs, 91st Cong., 2d Sess., National Land Use Policy Act, Report No. 91-1435.
[4] H.R. 2173, H.R. 7804, H.R. 8503; S. 632.
[5] H.R. 7211, H.R. 8504, H.R. 9911; S. 921, S. 2450, S. 3177.
[6] H.R. 4332, H.R. 4337, H.R. 4569, H.R. 4703, H.R. 5504, H.R. 6579, H.R. 8119, H.R. 10049, H.R. 10180, H.R. 10940, H.R. 12940, H.R. 14667; S. 992, S. 2401, S. 2554, S. 3175.

proposals were concerned, the Administration preferred to concentrate on critical areas rather than attempt comprehensive land use planning, and the Committee was informed that a grant program in excess of $20 million annually was not acceptable to the Administration.

With respect to the public lands, Administration witnesses wanted an Organic Act for the Bureau of Land Management, giving unbridled discretion to the Secretary of the Interior to manage the public domain or national resource lands, but did not favor congressional action to transform into law the Public Land Law Review Commission recommendations as to policy.

Witnesses other than those from the Executive branch of the Federal Government held varying views. In general, however, it appears there was no reason to adopt either the comprehensive planning procedure originally developed in the other body, or the critical area program advocated by the Administration to the exclusion of the other. The Committee believes the approaches can be combined and should be presented to the Congress in the form of one bill.

Adopting many of the views of witnesses, the original public land policy bill was trimmed from 50 pages to some 15 pages, after which elements of the national resources land manangement and national land use policy bills proposed by the Administration, as well as the modified Senate approach, were woven into the legislation now recommended to the House.

This brief legislative history has concentrated on the bills referred to the Committee on Interior and Insular Affairs. However, other legislation, referred to other Committees, also seeks to address similar problems. For example, H.R. 14146, reported recently by the House Committee on Merchant Marine and Fisheries and presently under consideration by the Congress, would establish policy and develop a program to protect the coastal zones of the Nation.[7] It has been the purpose of this Committee in recommending H.R. 7211 to make it possible to attack the problems of land use planning on a comprehensive basis rather than on a piecemeal, regional, or zone basis, even though the severity of the coastal zone problems and the sincerity of the Committee on Merchant Marine and Fisheries in reporting coastal zone legislation are not questioned in any respect.

ANALYSIS OF THE PROPOSED LEGISLATION

The proposed legislation, H.R. 7211, contains five titles, covering substantive material referred to the Committee originally as part of 18 bills. Essentially, the Committee amendment is based upon provisions of four major pieces of legislation sponsored by thirty-four Members, including 125 pages, forty-five specific findings, and thirty detailed definitions. The amendment has been developed after nine days of hearings and consideration during eight Subcommittee markup sessions of from two to three hours duration each, and six additional markup sessions of the full Committee.

As presented to the House, the Committee proposal would strike out all after the enacting clause of H.R. 7211, the public land policy bill introduced on April 6, 1971, inserting in lieu thereof a 56 page amendment establishing not only public land policy, but also containing the major elements of a public land management directive, and

[7] U.S. House of Representatives, Report of the Committee on Merchant Marine and Fisheries, 92d Cong., 2d Sess., Coastal Zone Management, Report No. 92-1049.

authorizing funds for State land use planning for nonpublic lands. All or a portion of some 160 statutes are repealed, including obsolete settlement laws and withdrawal authorities that would be replaced by a public land use planning and classification program. The $204 million grant-in-aid program is authorized for five years beginning July 1, 1973, on a 90–10 basis, continuing the following two years on a 75–25 basis, and continuing thereafter on a 50–50 basis.

SHORT TITLE

The short title of the Act is "National Land Policy, Planning, and Management Act of 1972."

TITLE I—FINDINGS, GOALS, OBJECTIVES, AND PURPOSES

SECTION 101—FINDINGS, GOALS, AND OBJECTIVES

This section sets forth the congressional findings and declarations which require the enactment of this bill.

The first finding is that there is a need for land use planning for both Federal and non-Federal lands "in order to promote and secure the proper allocation of resources and to provide for the protection of the environment."

The section also declares it to be in the national interest that Congress establish policy as to the public lands, that public land management agencies coordinate their efforts with one another and with the States, that the people be brought into the planning process, that State and local governments be assisted in planning the use of non-Federal lands, that population distribution patterns be influenced to make a wide range of amenities available, that communities be developed to provide a wide base for products and services, that Federal programs encourage desirable land use planning patterns, and that systematic methods for exchange of planning data be developed.

Additional findings follow to the effect that present State and local institutional arrangements for planning and regulating land use of more than local impact are inadequate in such areas as coastal zones, key facilities, and areas of critical environmental concern.

A final declaration finds it in the national interest to assist the States, in cooperation with local governments, to exercise their full authority over planning and regulation of non-Federal lands.

SECTION 102—PURPOSE

Four specific purposes of the Act are set forth in this section as follows:

1. Establish a long-term public land policy and give direction to the Federal land management agencies in carrying out their responsibilities;
2. Provide authority and procedures for management of the Federal lands;
3. Authorize assistance to the States for land use planning; and
4. Provide a system for planning, administration, and coordination of land use that will permit and encourage public involvement.

TITLE II—NATIONAL LAND USE PLANNING

SECTION 201—STATE LAND USE PLANNING GRANTS

This section authorizes the Secretary of the Interior to make grants to a State having an "eligible State land use planning agency" in order to develop a "comprehensive land use planning process."

An eligible State land use planning agency is defined as one having primary authority and responsibility for development and administration of a comprehensive land use planning process and having a competent and adequate interdisciplinary professional and technical staff, as well as special consultants available to it throughout the planning process.

A comprehensive land use planning process is defined as one taking into account all land and other natural resources within the State and one providing for—

1. Development of an "adequate data base";
2. Coordination of planning activities of State, areawide, interstate, local, and Federal agencies;
3. Consideration of various conditions, needs, projections, and unique characteristics;
4. "Substantial and meaningful" public involvement and continued participation by local governments;
5. Cooperative planning of Federal lands;
6. Technical assistance and training; and
7. Methods to—

(A) identify and control use of land in areas of critical environmental concern; prevent actions in disregard of State land use planning process; assure that laws and regulations are in accordance with the process; and assure that those laws are regulations affecting coastal zones and estuaries take into account wetlands values and susceptibility to destruction;

(B) identify and control use of land in areas impacted by key facilities;

(C) assure that local regulations do not unreasonably restrict development and land use of regional or national benefit;

(D) assure that Federal areas are not damaged or degraded;

(E) regulate new subdivisions and developments to assure that improvements are adequate to serve projected needs, adequate financing to complete and maintain the improvements, and that overall design is adequate to prevent damage by natural occurrences which are usual or predictable for the area;

(F) control proposed large-scale development of more than local significance; and

(G) control use of land around new communities and develop policy for influencing location of new communities.

The comprehensive land use planning process over which a State land use planning agency must have primary authority and responsibility in order to become and remain eligible for grants under this bill contains seven separate elements. One of these elements in turn requires methods of control in seven specific respects. The

Committee does not intend that the program authorized by this bill become nothing more than an exercise in planning for the sake of planning. It intends that the planning process be implemented where implementation is required to overcome the problems caused by inadequate planning or nonexistence of a planning process.

The section makes clear, however, that it does not preclude delegation by the eligible State land use planning agency to other State, regional, or local governmental entities, of responsibility and authority to plan for land use or to control the use of land as long as all planning and control decisions of regional or local entities having a substantial impact beyond the boundaries of such entities are subject to review and approval by an appropriate State agency.

It is the Committee's view that the Joint Federal-State Land Use Planning Commission, established by the Alaska Native Claims Settlement Act, need not be the eligible State land use planning agency designated for Alaska under this bill. The Joint Commission, according to law, will cease to exist December 31, 1976; prior to that time, its activities should be coordinated with those of the eligible State land use planning agency for Alaska.

The section further declares that its language shall not be deemed (a) to permit a Federal agency to intercede in management decisions within the framework of a comprehensive land use planning process, or (b) to enlarge or decrease the authority of a State to control the use of lands outside its jurisdiction, such as the Federal public lands.

SECTION 202—ALLOTMENTS

The Federal land use planning grants authorized in the preceding section are in this section limited to no more than 90 percent of the estimated cost of developing and administering a comprehensive land use planning process during the fiscal year 1973–74, no more than 75 percent of such estimated cost during the next two fiscal years, and no more than 50 percent of such estimated cost thereafter. The section also prohibits the use of grant funds for acquition of any interest in real property.

The grant-in-aid program approved by the Committee is substantially in excess of that recommended by the Administration. In the legislation submitted by the Administration, grants of no more than 50 percent for the entire program were authorized. However, as has been pointed out previously, the program contained in H.R. 7211 is a more ambitious one than that advocated by the Administration in that it urges comprehensive planning rather than zoning and control on a selective basis. The Committee does not believe such an ad hoc program of identifying and controlling critical areas only will accomplish what must be done. It is not feasible, in the opinion of the Committee, to single out critical areas such as those where key facilities are to be located without first undertaking an overall land use planning process.

On the other hand, most of the States are ill equipped and underfinanced to engage in comprehensive planning without Federal aid. We believe the substantial incentive that will be given by a 90-percent grant in the first year of operation, followed by two years of grants in the amount of 75 percent will enable the States to undertake comprehensive programs so that they will be able to develop them further and administer them on 50-percent grants in the following years.

SECTION 203—PAYMENTS

This section sets forth the method of computing and paying to the States the amounts provided for in the Act. The amounts paid to the States will be estimated by the Secretary prior to the beginning of each calendar quarter, or other period prescribed by him. Estimates for each period are to be based on records and information furnished by the State to the Secretary as he finds necessary.

The Secretary is required to adjust the estimated amount for each pay period by that amount for any previous pay period by which the State was paid either a greater or lesser amount than that which is properly payable. Payments to the States are to be made through the disbursing facilities of the Department of the Treasury.

SECTION 204—FINANCIAL RECORDS

Each State receiving funds under the Act is required by this section to keep records as prescribed by the Secretary of the Interior and to make them available for audit and examination. Included will be records which fully disclose the total cost of the undertaking in connection with which the grant was made, the amount and disposition of the funds received under the grant, the amount and nature of the cost supplied from other sources, and other information as to status and application of Federal funds.

SECTION 205—TERMINATION AND SUSPENSION

This section authorizes the Secretary of the Interior to terminate any financial assistance extended to a State under this Act whenever he finds that the State or its land use planning process no longer meets the requirements of section 201, or that the State is making no substantial progress toward development of a process. Appropriate notice and hearing are provided for prior to taking any such action.

The section also provides that any State, either not eligible under section 201 or not making substantial progress toward developing a comprehensive land use planning process on July 1, 1976, shall suffer a withholding of funds from three Federal grant-in-aid programs other than that contained in this Act at a rate of 7 percent of its entitlement. If the situation continues to exist on July 1, 1977, the withholding is at the rate of 14 percent, and if it continues on July 1, 1978, and thereafter, it is at the rate of 21 percnt.

The funds subject to withholding are (a) those for airport development provided for pursuant to the Airport and Airway Development Act; (b) Federal-aid highway funds exclusive of planning and research; and (c) funds from the Land and Water Conservation Act of 1965, as amended.

Deferral of both termination of grants under this Act and the withholding of the funds under other Federal programs is provided for "if necessary for the public health, safety, or welfare," in which event the State concerned is required to submit an acceptable schedule of compliance.

Two of the programs subject to the withholding provisions—the development program of the Airport and Airway Development Act and the Federal-aid highway program—were selected by the Committee because of their significant impact upon land use patterns

and the urbanization they generate. Without the coordination of plans for airports and highways with a State land use planning process, the purposes of the bill could be virtually invalidated. To balance the withholding of these development funds, and to insure that State efforts to maintain eligibility under this bill are not frustrated by those willing to have sanctions applied in order to halt necessary development, the third grant-in-aid program to which the sanctions apply is the Land and Water Conservation Fund.

These sanctions, contained in section 205(b), were recommended to the Congress by the Administration as being relevant to the bill it submitted, and the Committee finds them equally appropriate here. A tabulation by State showing the magnitude of the entitlements which could be withheld if the provisions of this section were invoked, prepared by the Legislative Counsel of the Department of the Interior, follows:

[In thousands of dollars]

State	Highway	Airports	L. & W.C.F.	Total	7 percent
Alabama	98,153	1,601	4,133	103,887	7,272
Alaska	51,104	8,253	2,154	61,511	4,305
Arizona	91,063	2,038	3,297	96,398	6,747
Arkansas	36,986	1,228	3,019	41,233	2,886
California	394,033	7,263	17,848	419,144	29,340
Colorado	86,371	2,013	3,578	91,962	6,437
Connecticut	117,354	844	4,299	122,497	8,574
Delaware	25,526	172	2,418	28,116	1,968
Florida	135,276	2,563	6,674	144,513	8,670
Georgia	104,547	1,984	4,778	111,309	6,678
Hawaii	56,448	288	2,609	59,345	4,154
Idaho	31,251	1,345	2,358	34,954	2,446
Illinois	323,975	3,617	10,205	337,797	23,645
Indiana	86,310	1,823	5,427	93,560	6,549
Iowa	74,388	1,500	3,547	79,435	5,560
Kansas	66,301	1,717	3,307	71,325	4,992
Kentucky	76,530	1,379	3,819	81,728	5,720
Louisiana	140,586	1,613	4,299	146,498	10,254
Maine	27,997	732	2,502	31,231	2,186
Maryland	147,787	1,165	4,991	153,943	10,776
Massachusetts	162,885	1,567	6,338	170,790	11,955
Michigan	195,905	3,594	8,422	207,921	14,554
Minnesota	103,062	2,166	4,437	109,665	7,676
Mississippi	51,658	1,235	3,044	55,937	3,915
Missouri	115,109	2,156	5,134	122,399	8,567
Montana	63,603	2,227	2,376	68,206	4,774
Nebraska	39,363	1,452	2,877	43,692	3,058
Nevada	31,655	1,665	2,402	35,722	2,500
New Hampshire	25,394	317	2,404	28,115	1,968
New Jersey	134,049	1,926	7,201	143,176	10,022
New Mexico	51,746	1,954	2,555	56,255	3,937
New York	363,114	5,347	15,928	384,389	26,907
North Carolina	99,272	2,021	4,790	106,083	7,425
North Dakota	32,894	1,142	2,301	36,337	2,543
Ohio	180,042	3,318	9,749	193,109	13,517
Oklahoma	52,623	1,624	3,568	57,815	4,047
Oregon	106,217	1,884	3,392	111,493	7,804
Pennsylvania	252,794	3,628	10,667	267,089	18,696
Rhode Island	48,309	258	2,755	51,322	3,592
South Carolina	44,919	1,092	3,462	49,473	3,463
South Dakota	33,632	1,243	2,329	37,204	2,604
Tennessee	73,790	1,585	4,360	79,735	5,581
Texas	239,520	6,566	9,929	256,015	17,921
Utah	66,603	1,452	2,799	70,854	4,959
Vermont	25,677	247	2,208	28,132	1,969
Virginia	129,674	1,769	5,056	136,499	9,554
Washington	139,409	1,849	4,322	145,580	10,190
West Virginia	131,375	780	2,938	135,093	9,456
Wisconsin	67,044	2,040	4,830	73,914	5,173
Wyoming	39,378	1,450	2,162	42,990	3,009
District of Columbia	77,778	192	927	78,897	5,522
Total	5,350,489	102,884	243,000	5,696,373	398,746

SECTION 206—RULES AND REGULATIONS

This section directs the Secretary to promulgate rules and regulations for the administration of the grant program, "including the detailed terms, conditions, and guidelines under which grants may be made or terminated, and under which the existence of a comprehensive land use planning process . . . may be determined."

TITLE III—COORDINATION OF LAND USE POLICY AND PLANNING

SECTION 301—OFFICE OF LAND USE POLICY AND PLANNING ADMINISTRATION

This section establishes within the Department of the Interior an Office of Land Use Policy and Planning to administer the grant-in-aid program under title II and effect coordination between title II programs and title IV responsibilities of the Federal Government. To insure the absence of any mission-orientation in such administration and coordination, the Office is separate from any existing bureau or agency in the Department.

The Office is headed by a Director, appointed by the President with the advice and consent of the Senate. His duties will be as assigned by the Secretary. He will be compensated at the rate provided for in level V of the Executive Schedule Pay Rates. Such other officers and employees as may be required are also authorized.

The section prescribes the following duties of the Secretary, acting through the Office:

1. Developing and maintaining a Federal Land Use Information and Data Center, with such regional branches as the Secretary may deem appropriate. It is expected that the Center will have on file plans for federally initiated and federally assisted activities which have direct and significant land use impacts; whenever practicable, the plans and programs of State and local governments and private enterprises which are of more than local significance; statistical data and information on past, present, and projected land use patterns of more than local significance; studies of methods for collection, analysis and evaluation of land use data and information; and such other information as is deemed appropriate and useful. Considerable latitude would be given to the Secretary in developing and maintaining the Center so that duplication of data available elsewhere will be at a minimum.
2. Cooperating with the States, local governments, and interstate agencies in the development of standard methods and classifications for the collection of land use data.
3. Making the Center's information available to all levels of government and the public.
4. Consulting with other Federal officials administering Federal land use planning assistance programs in order to coordinate those programs.
5. Administering the grant program established under title II.
6. Providing administrative support for the National Land Use Policy and Planning Board established by section 303.

SECTION 302—STUDIES OF REGIONAL COORDINATION AND PLANNING GRANTS FOR LANDS HELD IN TRUST

This section authorizes and directs studies on the need for and form of (a) regional coordination councils, and (b) a grant program providing for land use planning on lands held in trust for Indians, Aleuts, and Eskimos. A report on the studies is required within three years of the date of enactment of the bill.

Although it seems obvious to the Committee that much land use planning may eventually be on a regional basis rather than being contained solely within State and county boundaries, the Committee is not prepared at this time to stipulate what the regional organizations should be. One obvious possibility is assigning further responsibility to the river basin commissions, as suggested by the Public Land Law Review Commission and as contained in some of the proposed legislation on which H.R. 7211 is based in part. The Commission also recommended, however, that "such commissions should come into existence only with the consent of the States involved." It thus seemed preferable to provide for a study of this matter during the period the States are developing their basic land use planning processes.

In the case of the trust lands, there are vast acreages here not covered elsewhere in H.R. 7211. The lands do not qualify under the title II grant program, nor are they "public lands" under title IV. Although some Indian reservations are as large as some of the States, it seemed prudent to provide for a study of the matter, permitting the Director to formulate a program embodying insofar as is practicable provisions similar to those contained in title II.

When these reports have been completed Congress will be in a position to provide such legislation as may be required to reflect their recommendations.

SECTION 303—NATIONAL LAND USE POLICY AND PLANNING BOARD

This section establishes a National Land Use Policy and Planning Board composed of the Director and eight policy coordinators from the Departments of Agriculture; Commerce; Health, Education, and Welfare; Housing and Urban Development; Transportation; and Defense; the Water Resources Council, and the Environmental Protection Agency.

The Director is designated Chairman, and he is authorized to call meetings of the Board and is directed to request representatives of other Federal departments and agencies to participate in the proceedings of the Board when matters affecting their responsibilities are under consideration.

The Board is required to (1) provide information and advice concerning the relationship of national land use policy to the programs of departments and agencies represented on the Board, (2) assist and advise the Secretary in drafting rules and regulations required under this bill, and in coordinating the review of proposed rules and regulations as to management of public lands, (3) assist in coordinating the continuing review of State land use planning processes, (4) exert every effort to assure development of consistent land use plans, (5) provide advice on such other matters as may be referred to the Board, and (6) submit annual reports to the Secretary.

SECTION 304—LAND USE POLICY COORDINATORS

This section directs the appointment of land use policy coordinators by the heads of those departments and agencies represented on the Board under section 303. It provides that the coordinators shall be compensated at a rate not lower than the basic rate established for grade 15 of the General Schedule. It also provides that the coordinators generally shall not be assigned any duties which are unrelated to the administration of national land use planning policy.

Duties of a coordinator are to—

Represent his department or agency on the Board;

Assist in the coordination and preparation within his department or agency of comments on rules and regulations proposed for promulgation by the Secretary pursuant to this Act and in the review of State land use planning processes;

Assist in the dissemination of policy information on land use planning and in implementation within his department or agency of policies and procedures developed pursuant to this Act;

Perform such other duties as his agency head may direct; and

In the case of the coordinator appointed by the Secretary of Housing and Urban Development, ascertain whether a State's comprehensive land use planning process is consistent with programs administered through Housing and Urban Development on which the process has a direct and immediate impact.

The Committee regards establishment of the Policy and Planning Board and the appointment of the coordinators as one of the most crucial steps in development of a coordinated land use planning program.

The Committee considered suggestions of the Executive branch that the Secretary of Housing and Urban Development be assigned a greater responsibility in administration of the grant program; that the Council on Environmental Quality issue guidelines to assist the Federal agencies in carrying out the requirements of the bill; and that much of the administrative and coordinating responsibility be given to the regional clearinghouses established by the Office of Management and Budget.

As established by H.R. 7211, membership of the Policy and Planning Board is similar to that proposed in early drafts of land use planning legislation, where administrative and coordinating authority were placed in an independent agency to be created by expansion of the existing Water Resources Council.

While all of these proposals have merit, the Committee believes a more responsible, and responsive, administration will result if Federal authority is assigned to a line agency such as the Department of the Interior as long as other departments and agencies are brought into the planning effort. It will not be an easy task to assure coordination of the efforts of all of the Federal public land management agencies. Added to this is the requirement that other Federal programs and activities affecting land use planning be coordinated, and that all of the Federal activity be coordinated with the State land use planning processes. This is the purpose of the Board.

SECTION 305—RESOLUTION OF CONFLICTS

This section does not in itself resolve conflicts. It declares, first of all, that Federal projects and activities on non-Federal lands that significantly affect land use shall be consistent with State land use controls "except in cases of overriding national interest."

The head of each Federal department and agency, as a part of his planning procedures on programs involving a major land use activity, is directed to consult with the Director to determine whether his programs conflict with activities of other Federal, State, or local agencies. In the event a conflict exists, the section requires that it be reported to the Secretary.

If the conflict is not resolved by those involved within ninety days after such report is filed, the Secretary is directed to investigate the matter and report his findings and recommendations to the department or agency involved, to the President, to the Congress, and to the State agency involved, if any.

It is anticipated that during this time virtually all conflicts will be resolved by the parties involved. If this is not done, the matter will be handled either by the President or by legislative action.

SECTION 306—DEPARTMENTAL ADVISORY COMMITTEES

Three Federal level advisory committees are established by this section to advise and counsel the heads of the departments and agencies—

1. With respect to the development of land use plans of the public land management agencies, including all aspects of the problems related to the management of the public lands;

2. on those activities of such department or agency having a substantial impact on land use planning; and

3. on such matters that the head of the department or agency may refer to the committees.

Each committee is composed of twenty-one members. One committee, to be appointed by the Secretary of the Interior will advise that department. One, appointed by the Secretary of Agriculture, will advise that department. The third committee will be appointed by the President from among persons nominated by the Secretaries of Defense; Transportation; Health, Education, and Welfare; Housing and Urban Development; and Commerce; the Commissioner of the Atomic Energy Commission, and the Administrator of the the Environmental Protection Agency. This committee will provide advice for these seven agencies who have comparatively minor roles in public land management but major roles in related land use planning programs.

Members of the committees are to be appointed from among persons who are representative of the varous major citizens' interests concerning the problems relating to land use planning or the management of the public lands. Terms of office for committee members are four years; staggered terms of office are established.

The Committee thought it impossible to set forth in the bill each major citizens' interest that might be represented on these committees. In all probability, there are more interests than the twenty-one memberships provided and membership will vary as terms of

office expire and new appointments are made. What the Committee has in mind, however, is that the membership will vary from time to time and that it will be generally in proportion to the number of possible interests involved. For example, the advisory committee for the Department of the Interior will include members interested in the lands administered by the National Park Service, Bureau of Sport Fisheries and Wildlife, Bureau of Reclamation, and the Bureau of Land Management. Such interests include many forms of outdoor recreation, conservation, timber production, grazing, mining, and watershed protection.

The Committee does not intend that the departmental advisory bodies will be weighted in membership in any particular way. To be of most value to the departmental administrators, the committees should represent many points of view. The objective is to involve the public at this high, Federal level in decisionmaking.

The section provides for travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Federal Government, but otherwise members serve without pay.

The committees are required to meet at least four times annually. Governmental agencies are directed to furnish information required by the committees and the Administrator of General Services is directed to provide administrative support services.

SECTION 307—LOCAL ADVISORY COUNCILS

This section authorizes and encourages establishment of regional, State, district, or local advisory councils to advise Federal land management agencies.

As in the case of the departmental level committees, members of the advisory councils receive no compensation and will serve for four-year staggered terms of office. Each advisory council is directed to meet at least twice a year.

Both the three departmental advisory committees, which are mandatory under the bill, and the local advisory councils, which are not mandatory, reflect recommendations of the Public Land Law Review Commission. The Commission pointed out that advisory boards have been used in public land matters "for years". Often, however, the boards have been established administratively, with no clear statutory authority. This section provides such authority. It also provides that, if an advisory body is established, it shall meet; it is not to be ignored. Finally, this section assures that the councils shall be representative of the various major citizens' interests, which is not always the case with advisory bodies which have been established administratively.

The Committee notes, as did the Commission, that there are some disadvantages to the use of this advisory mechanism. The Commission concluded—

> We believe that the advantages of citizen advisory boards outweigh the possible disadvantages, but that some controls on the operation of such boards are necessary. To give advisory boards the stature and role that they deserve, we propose that the public land management agencies be given clear statutory authority to use them at all levels. * * * We recommend use of boards at the national policymaking level.

> In addition, Congress should specify any other boards that would be required and allow the departments and agencies discretion in establishing others.[8]

In establishing three Federal level citizen committees and encouraging the use of other regional, State, district, or local advisory councils, the bill provides a statutory basis for only one method of public involvement. This does not preclude the use of public hearings and such other procedures as may be necessary to provide public input in a particular instance. The advisory bodies provide one effective way of permitting the public to participate at an early stage of decisionmaking, but they possess no veto power or influence necessarily greater than other methods of involvement.

SECTION 308—BIENNIAL REPORT

This section requires the Secretary, with the assistance of the Director and Board, to prepare and submit a report biennially to the President and the Congress on land resources, uses of land, and current and emerging problems of land use.

SECTION 309—UTILIZATION OF PERSONNEL

This section authorizes the head of any Federal department or agency to do two things when requested by the Secretary of the Interior:

1. To furnish the Director such information as may be necessary for carrying out his functions to the extent it is available to or procurable by such department or agency; and
2. To detail to temporary duty with the Director on a reimbursable basis such personnel within his administrative jurisdiction as the Director requests, each such detail to be without loss of seniority, pay, or other employee status.

TITLE IV—PUBLIC LANDS POLICY AND PLANNING

SECTION 401—DECLARATION OF POLICY

This section contains sixteen specific declarations of policy with respect to the Federal public lands. While each of these declarations of policy will require additional legislative and administrative action in order to implement the particular stated policy fully, many of the declarations are not implemented by further statutory language in this bill. Generally, the policy declarations are based upon recommendations of the Public Land Law Review Commission contained in its report, "One Third of the Nation's Land."

The reason for taking this approach has been explained by the Chairman of the Committee recently, as follows:

> When the Public Land Law Review Commission report was submitted, I urged all those to whom it was of interest to read and consider it in its entirety and not to rush to conclusions on the basis of a particular recommendation without being aware of the limitations that might be placed on it by other recommendations.

[8] *One-Third of the Nation's Land: A Report to the President and to the Congress.* The Public Land Law Review Commission, June 1970 (p. 288).

> Following this same advice, which I still regard as good * * * has presented problems in Congress. It is not possible to enact one law that would take care of all the Commission recommendations—and yet, if we tried to take them up one by one, chapter by chapter, for example, we would have no assurance that the limitations of other recommendations to which I referred would ever be considered.
>
> I therefore proposed that we consider a bill that would establish broad policy along the lines of as many Commission recommendations as we could find agreement on in Congress.[9]

It is anticipated that from five to ten years will be required for the Congress to consider all of the recommendations of the Commission and to develop the specific and detailed statutory language that will be necessary to implement those recommendations that are agreed to. So that congressional action can be on a coordinated basis, this bill establishes a policy framework within which the legislation to implement each policy can be contained. In some instances, particularly with respect to land use planning and management authority for the public land agencies, it has been possible to follow immediately with further implementing language in this title.

Section 401(a) declares it to be the policy of the United States that—

1. Public lands generally be retained in Federal ownership.—This is a statutory reversal of traditional policy which has as its objective the disposal of the public lands in order to achieve settlement of the Nation, and, in many cases, to raise revenue for such purposes as the defense of the Nation. This policy declaration would permit disposal only where it is determined that it would "achieve a greater benefit for the general public" than retention. Specific criteria for disposal classification is contained in section 403(d).

2. Public land classifications be reviewed to determine the type of use that will provide maximum benefit for the general public in accordance with overall land use planning goals.—The review called for by this declaration is further implemented in section 403(a).

3. Executive withdrawals be reviewed to ascertain they are of sufficient extent, adequately protected from encroachment, and in accordance with the overall land use planning goals of this Act, with a view toward securing a permanent statutory base for units of the National Park, Forest, and Wildlife Refuge Systems.—This review is provided for in section 404.

4. Congress exercise withdrawal authority generally and establish specific guidelines for limited Executive withdrawals.—Section 405 implements this policy declaration.

5. Public land management agencies be required to establish and adhere to administrative procedures.—Although implementation of this policy could, and to some extent has, since the Commission report, taken place by administrative action, it is anticipated that further legislation that is not contained in this Act will be required. Such legislation will provide guidelines for establishment of comprehensive rules and regulations; restructure adjudication procedures to assure due process, adequate third-party participation, objective administrative review of initial decisions, and expeditious decisionmaking; and provide for judicial review.

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[9] Hon. Wayne N. Aspinall, Remarks Before the Interstate Association of Public Land Counties, Phoenix, Arizona, May 8, 1972.

6. Statutory land use planning guidelines be established providing for management of the public lands generally on the basis of multiple use and sustained yield.—This is accomplished in section 403.

7. Public lands be managed for protection of quality of scientific, scenic, historical, ecological and archeological values; for preservation and protection of certain lands in their natural conditions; to reconcile competing demands; to provide habitat for fish and wildlife; and to provide for outdoor recreation.—Section 403 provides statutory implementation for this policy declaration.

8. Fair-market value generally be received for the use of the public lands and their resources.—The declaration further states that (1) monetary payment need not represent fair-market value where Congress has identified public benefits from the use of public lands and resources that offset the need to return fair-market value, and that (2) the existing public right to enter without charge public lands and waters for certain "noncommercial" recreational activities are not affected by this Act.

Additional legislative action is required to implement this declaration. It is anticipated that, as each use to which the public lands and other resources may be put is taken up by the Committee, this subject will be dealt with. For example, when the mining laws are revised, provision should be made for payment by those who extract the mineral resources from the public lands. As another example, there is legislation introduced which would revise the grazing fee structure and this, when accomplished, should be in accordance with this principle. An example of the type of public benefit that might be identified by Congress as offsetting the need to return fair-market value would be where a tract of Federal land might be transferred to a State or local governmental unit for administration for recreational purposes, or where improvements inure to the benefit of others than the person placing them on the public lands. If the fair-market value principle is to be meaningful, legislation implementing it generally should not be eroded by exceptions to the rule it states.

9. Equitable compensation be provided to users if use is interrupted prior to the end of the period for which use is permitted.—Some uses now permitted on the public land and of their resources may be phased out as the land use planning and classification system established by this Act is developed. For example, it may be that special-use permits on the national forests may be cancelled in order for the overall land use plan to be put into effect. If such cancellation takes place prior to the time the term of the permit is to expire, one owning a vacation home, for example, may be entitled to a fair settlement. Permits granted in good faith should not arbitrarily be cancelled to the detriment of those relying on past practices. On the other hand, outdoor recreation for many persons may be assured where only a few now have vacation retreats if the special-use permits are cancelled as a land use plan is developed. In making this policy declaration, the Committee is not attempting to enlarge a permit into a property right any different from what is now involved in an authorization for the citizen to use the public lands.

10. An equitable system be devised to compensate State and local governments for burdens borne by reason of the tax immunity of the Federal lands.—Bills which seek to deal with this issue have been introduced during the present session of Congress. It is anticipated that hearings

will be scheduled if time permits after departmental reports are received. The policy expressed in this declaration is that if public lands are to be retained in public ownership rather than placed upon the tax rolls, the citizens of the entire Nation, rather than only those living within the city, county, or State where the public lands are located, should be in a position to help bear the burden of those lands yielding no tax revenues. Some system of assessing or placing a valuation upon the lands for "tax" purposes will have to be devised and an equitable payment or "levy" will have to be developed, taking into account the fact that public lands are often a benefit as well as a burden to people living in the regions in which they lie. The bill expressly recognizes that some unique situations exist which are to be treated uniquely in the light of special factors involved in those situations.

11. When public lands are managed to accomplish objectives unrelated to protection or development of public lands, the purpose and authority therefore be provided expressly by statute.—Obviously, further statutory action is required to implement this declaration. While the Committee believes the Federal Government should be able to use every Constitutional tool to accomplish public policy goals, the decision to utilize indirect approaches to promote such objective should be made by Congress rather than by administrative action alone.

12. Administration of public land programs by various agencies be similar.—This is one of the objectives that is implemented further by the remaining sections of title IV. There is no reason why citizens going upon the public lands should be subjected to one set of rules where the land is under the management of the Bureau of Land Management and another set of rules where the Forest Service is managing the land as long as the land programs are similar, which in many instances they are.

13. Uniform procedures for disposal, acquisition, and exchange be established by statute.—This is a matter that will take further legislation. No new authority to sell, buy, or trade lands is contained in this bill. *Criteria* for classifying land for disposal is set forth in section 403(d), and any classification for disposal in excess of 25,000 acres is subject to congressional committee approval, but until new sale authority is provided by law, no disposal can be made except in accordance with such laws as remain in effect after passage of this bill.

14. Regulations for protection of areas of critical environmental concern be developed; and that authorizations for use of the public lands provide for revocation upon violation of applicable regulations.—Legislation generally will be required to strengthen authority ofr the administrative agencies to promulgate regulations and include providions authorizing revocation or suspension in permits, licenses, or other authorizations to use, occupy, or develop the public lands.

15. Persons engaging in extractive or other activities "likely to entail significant disturbance" be required to have a land reclamation plan and a performance bond guaranteeing such reclamation.—Bills are now before the Committee that would implement this policy further insofar as surface coal mining is concerned. It is likely that enactment of such legislation would be desirable in all cases before administrative agencies can proceed to enforce regulations based upon the policy declaration.

16. The public lands be administered uniformly as to use and contractual liability conditions, except when otherwise provided by law.—As

indicated by the last phrase, other statutory provisions affect this policy statement, but it nonetheless serves as an admonition to the land management agencies against unwarranted discrimination.

Section 401(b) declares that the policies of this section are "supplemental to and not in derogation of" the purposes (1) for which units of the National Park System, National Forest System, and National Wildlife refuge System are established and administered, and (2) for which public lands are administered by agencies other than the Departments of Agriculture and the Interior "in the fulfillment of their statutory obligations."

It is not the intention of this bill to override, cancel, replace, or in any way change the purposes for which various dedications of public lands have been made in the past. On the other hand, it is a stated objective of the bill to provide for an overall land use planning effort on the part of all public land management agencies.

The purpose of the bill is to strengthen management by providing statutory guidelines applicable to all agencies having jurisdiction for administration of the public lands. Management practices thus will be more uniform, more easily administered and more easily understood by the public. Accomplishing this purpose need not, and does not, for example, alter the primary mission of the Department of Defense.

SECTION 402—INVENTORY; IDENTIFICATION

Each public land management agency head is required by this section to prepare and maintain an inventory of the public lands and resources under his jurisdiction, including identification of lands subject to a withdrawal or reservation. He also is directed to ascertain the boundaries of the lands under his jurisdiction.

Although this may be a relatively simple task for the Director of the National Park Service, it will be a monumental undertaking for the Director of the Bureau of Land Management. Virtually every acre of the 451 million acres under his exclusive jurisdiction is subject to a withdrawal order or other restriction. Until cadastral surveys are completed, the exact marking of all boundaries is not possible, but the effort should be made to develop both the inventory and proper identification of boundaries in an orderly way and within a specified period of time.

SECTION 403—PLANNING PUBLIC LAND USE; MANAGEMENT DIRECTIVES

The language contained in this section is at the same time one of the most strict congressional directives that has been issued to the Executive and one of the broadest grants of authority to manage the public lands.

The public land management agency heads are required to develop land use plans, to involve the public, and to coordinate their plans with the planning processes of the States in which the public lands are located. Without the new authority to classify land contained in this bill, this would be virtually impossible. Under present law, whenever the Bureau of Land Management, for example, has wanted to exclude mining operations from a tract of land being developed as an administrative area, a withdrawal had to be made. Under the

provisions of this section, the area need only be classified so as to exclude uses that are not compatible with the administrative purposes for which the tract is to be used.

The basic elements of a public land management directive, sought by the Executive branch and contained in its proposed legislation submitted to the Congress, are contained in this section. They are, however, applicable to all public land management agencies, rather than to the Bureau of Land Management alone. Because of the difference in statutory missions and the varying degrees of administrative sophistication now existing among the various agencies, the statutory direction is of particular importance to the Bureau of Land Management of the Department of the Interior and the Forest Service of the Department of Agriculture.

It is the Committee's view that, if comprehensive land use plans are to be developed for the public lands, it is necessary to examine the entire inventory prepared under section 402 and make a determination as to what use should be made of each tract of land. In order to obtain the maximum benefit for the general public, it is anticipated that most of the national resource lands under the administration of the Bureau of Land Management will be classified for retention and for multiple use management. Lands included within national parks, of course, will be retained and generally, as is presently the case, will not be administered under multiple use plans.

Subsection (*a*) directs land management agency heads to prepare land use plans with the objective of classifying the lands in order to obtain the maximum benefit for the general public. The bill requires that the public be involved in developing such plans. Land use plans are required for all public lands regardless of whether such lands have been previously classified, withdrawn, set aside, or otherwise designated for one or more uses. This means specifically that the classifications made by the Bureau of Land Management under the temporary Classification and Multiple Use Act of 1964 should be reviewed, as well as the classifications effected by the Forest Service under the 1960 Multiple Use and Sustained Yield Act. It also means that, even though their specific missions have been established pursuant to statute, other land management agencies are required to comply with the provisions of this section.

Subsection (*b*) requires that notice of a land use plan providing for classification of a tract of land in excess of 25,000 acres be given to the Committees on Interior and Insular Affairs of the U.S. Congress if either (1) the classification is for sale or other disposal under applicable law, or (2) the classification excludes one or more multiple uses from the tract for a period longer than one year.

The classification in either of these two cases will become effective at the end of sixty days after notice is filed with the Committees if neither Committee passes a resolution stating in substance that it does not favor such classification.

One purpose of this subsection is to assure that no substantial disposal of the public lands takes place without the approval of the oversight Committees. Another objective is to provide monitoring of the administrative agencies' actions in exercising the newly given authority to implement their land use plans by classifying rather than relying on the withdrawal process.

The Committee is not certain that the 25,000 acre limitation is the only realistic limitation that can be established, particularly insofar as classification for disposal is concerned. However, this was the limitation recommended by the Administration, if one was to be imposed, and it is believed that it is a reasonable statutory stipulation that assures that (1) management prerogatives are generally where they should be—in the control of the administrator; and (2) the new discretionary authority to classify land is carefully exercised.

Subsection (c) requires that management of the public lands generally be according to principles of multiple use and sustained yield. This is a continuance of a widely accepted philosophy that has been developed on the national forests and, in the interim period during which the Public Land Law Review Commission prepared its report, was applied in administering the national resource lands of the Bureau of Land Management.

Where appropriate, the principle should be extended to other lands. Various compatible uses, for example, have been made of lands under the jurisdiction of the Department of Defense without interfering with the primary mission of national defense for which the lands are required.

The subsection recognizes that where a specific use, such as watershed protection, is made of a parcel of the public lands, other uses that are compatible with the required objective would be permitted. Excepted from multiple use management would be lands which have been permanently dedicated by Congress to a dominant use such as is the case with units of the Wilderness Preservation System.

Subsection (d) establishes the criteria for classifying public lands for disposal. The limited instances in which disposal may take place are a far contrast from the widespread disposal now permitted by law. This section, coupled with the repeal in section 502 of virtually all of the specific sale authorities serves to implement the policy declaration that, generally, the public lands be retained in public ownership.

Classification for disposal is permitted if there is a finding that lands so classified will serve the maximum benefit for the general public in non-Federal ownership. Such a determination can be made only upon the basis of a further finding that—

The land involved is isolated and difficult to manage; or

Land acquired for a specific use is no longer needed for that use or for any other Federal use; or

The land is best suited for the use or the production of resources under non-Federal ownership.

In the opinion of the Committee, these criteria for disposal generally will result in classification for retention. If comprehensive land use planning is to develop properly on a nationwide basis, however, there may be instances in which land ownership should be transferred from the Federal Government to others in order to achieve the goal of maximum benefit for the general public.

The first two criteria need little explanation. The third may require the further statement that there remain relatively small acreages of public lands that are suitable, for example, for intensive agriculture, and that there is little benefit for the general public achieved by maintaining a landlord-tenant relationship between the United States and the farmer.

It would seem unnecessary to state that such an instance has no relevance to national parks or forests where the maximum benefit is being served otherwise. This is no interpretation of these criteria, in the opinion of the Committee, that will encourage widespread disposal of permanently dedicated lands, and this is not the intention of the Committee.

H.R. 7211 contains no new sale authority. Subsection (d) specifically states that "where public lands . . . have been designated for disposal, disposal shall be made only in accordance with other provisions of law." This bill contains no authority whatsoever to dispose of public lands.

The subsection also provides that if disposal does take place under other provisions of law, it shall not be accomplished "unless and until the agency head has received assurances . . . that such transfer will not cause significant adverse impact upon the environment."

Subsection (e) requires the land management agencies, in developing land use plans, to use a systematic interdisciplinary approach; consider future demands and alternatives; consider regional, State, and local needs and effects; develop a rationale for selecting particular courses of action; classify for protection of environmental quality; and to adhere to environmental quality control laws.

These statutory requirements provide specific and detailed guidelines for the public land administrator. They also provide assurances to the citizen and to the Congress that, although broad classification authority is being extended to the administrator, such authority must be exercised with the greatest of care.

Subsection (f) requires that land use plans be consistent by coordination through the administrative and coordinating mechanisms established under title III. It directs that every effort be made "to assure consistent and coordinate planning and management at the regional and local levels of administration, as well as at the national level." The section further requires that, to the extent practicable, public lands be classified for use consistent with State or local land use plans.

Subsection (g) requires public involvement in the planning process. It is the intention of the Committee that opportunity be given to the public for participation by promulgation of rules and regulations permitting various methods of involvement. Advisory committees and councils should be activated and consulted; public hearings should be held; workshop discussions should be conducted. All methods of encouraging and receiving the public input should be considered, and in each instance those calculated to achieve a fully representative view should be followed.

SECTION 404—STATUTORY BASE FOR EXECUTIVE WITHDRAWALS

This section requires the Secretary, during the ten-year period following enactment of this legislation, to review all Executive withdrawals (except those made under section 17(d)(2) of the Alaska Native Claims Settlement Act), and from time to time during such period to recommend to Congress legislation to carry out the purposes of each withdrawal and attain the overall land use planning goals provided in the bill.

Agencies administering withdrawn lands are directed to provide the Secretary with information necessary to make determinations required by this section.

Upon receipt of a recommendation from the Secretary, Congress is directed to consider legislation to secure a statutory base for a withdrawal for such length of time, including permanent dedication, as is required to accomplish the purposes for which the withdrawal was made.

Existing withdrawals remain in effect until revoked or until expiration, and they may be extended or modified only in accordance with this section. National Forest System withdrawals may be revoked only with the consent of the Secretary of Agriculture.

In recommending that all public land agencies be required to formulate long-range comprehensive land use plans, the Public Land Law Review Commission concluded that—

> As an essential first step in the planning system, Congress should provide for a careful review of all Executive withdrawals and reservations and Bureau of Land Management retention and disposal classifications.[10]

The purpose of this section is to provide statutory authority for the recommended withdrawal review, the review of classifications having been provided for in section 403(a). An additional, major objective is to provide a means by which Executive withdrawals made to establish, for example, units of the National Park and National Wildlife Refuge Systems may be converted into permanent statutory dedications.

In the opinion of the Committee, the administrative review and the subsequent congressional action should take place as rapidly as possible. For this reason, the Committee urges that the reviewing authorities make every effort to adhere to the ten-year schedule provided for in the bill.

It is anticipated that the review will result in recommending that many so-called temporary withdrawals, being no longer justified, be revoked, and that the lands that were subject to such withdrawals be classified under land use plans developed by the various administering agencies.

This section of the bill is particularly important because of the extent of withdrawals as they were used in the past. Since they affect virtually every acre of public land in one way or another, it is obvious that any comprehensive land use planning effort requires that the withdrawals be examined, rejustified if continued need is shown therefor, and cancelled or revoked if the need no longer exists or can better be served through the classification process.

SECTION 405—WITHDRAWALS

This section grants to the Secretary of the Interior authority to make withdrawals in the future. The authority is limited both as to acreage and terms of years in accordance with recommendations of the Public Land Law Review Commission. The Committee believes that such authority will be little used as the new classification system is developed.

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[10] *One-Third of the Nation's Land: A Report to the President and to the Congress.* The Public Land Law Review Commission, June 1970 (p. 52).

Under this section, the Secretary is authorized to withdraw not exceeding 25,000 acres for nonresource uses, in aid of legislation, or in an emergency. A periodic review of all such withdrawals also is required. By "nonresource use", the Committee refers to such uses as the Department of Defense may have for tracts of land from time to time. These withdrawals cannot exceed a period of ten years. Withdrawals in aid of legislation may be necessary as Congress considers additions to the National Park System, for example, or authorizations for reclamation projects. These withdrawals cannot exceed a period of five years. The Administrative Procedures Act is made applicable to such withdrawals.

If emergency withdrawals are deemed necessary, this section establishes a procedure to be followed, providing for investigation of alternatives, analysis of probable effects, and estimated duration of the withdrawal. Procedures for public involvement are established. Emergency withdrawals cannot exceed a period of five years.

All withdrawals other than those specifically authorized in this section and in the Alaska Native Claims Settlement Act are to be made in the future by Congress.

If a parcel here authorized to be withdrawn by the Secretary exceeds 25,000 acres in the aggregate "for any one project or facility," notice of the proposed withdrawal must be given to the Committees on Interior and Insular Affairs of the U.S. Congress. In such cases, the withdrawal becomes effective only if during the following 60-day period neither Committee adopts a resolution stating in substance that it does not favor the withdrawal.

The Department of the Interior provided information to the Committee indicating that in the last two years out of approximately 130 Executive withdrawals made only two exceeded 25,000 acres and only six were in excess of 5,000 acres. This bill has the effect of raising to 25,000 acres the 5,000-acre limitation which has been in effect for defense withdrawals for many years.

It is not anticipated that congressional Committee review of Executive withdrawals made in the future will occupy an appreciable amount of time.

SECTION 406—ENFORCEMENT AUTHORITY

This section, generally recommended as a part of the legislation submitted by the Executive branch, provides for fines of not more than $1,000 and imprisonment of not more than one year or both for violation of regulations to protect the public lands. It authorizes application for an injunction "or other appropriate order" to prevent any person from utilizing the public lands in violation of the regulations.

The section also authorizes public land management agency heads to designate employees to make arrests without warrant for any misdemeanor if it is committed in his presence or for any felony if there is probable cause to believe that there may otherwise be delay in apprehending the person arrested. Such employees are authorized to execute warrants or other process and to carry firearms.

Finally, the section authorizes courts to issue process for arrest of persons charged with violation of law or regulations on the public lands, and it provides for arrest without process where a person is taken in the act of violating a law or regulation.

This section clarifies the law enforcement arrest authority for serious offenses, covering the following types of crimes:

1. A Federal crime on Federal land;
2. A State crime or common law crime on Federal land;
3. A Federal crime committed on non-Federal lands where the felon flees and is apprehended on Federal land;
4. A State crime committed on non-Federal lands where the arrest is made on Federal land; and
5. Arrest for probable cause without a warrant under circumstances where the delay in obtaining a warrant could jeopardize the apprehension of the person.

TITLE V—APPROPRIATION AUTHORIZATION, REPEAL OF PRIOR LAWS, AND DEFINITIONS

SECTION 501—APPROPRIATION AUTHORIZATION

This section authorizes total appropriations of $504 million for five fiscal years beginning July 1, 1973, for grants to States under title II. Appropriations are based upon a $60 million program annually with the Federal Government, pursuant to section 202, bearing the following percentages during the five years:

Year beginning	Percent grant	Amount (millions)
July 1, 1973	90	$54
July 1, 1974	75	45
July 1, 1975	75	45
July 1, 1976	50	30
July 1, 1977	50	30

SECTION 502—REPEAL OF PRIOR LAWS

Subsection (a) repeals, effective July 1, 1974, all appropriation authorizations for administration of the public lands that contain no dollar limitations. It declares that appropriations to administer the public lands shall not exceed the amounts specified in Acts that authorize appropriation of specified amounts.

The Secretary of each executive department which has public land managment responsibilities is directed to submit to Congress his recommendations for legislation that will provide the policies, scope, limitations, and guidelines for such administration "in order that policies heretofore adopted by administrative action may have a proper legislative base."

The Committees with oversight responsibility in Congress are unable to exercise such responsibility if programs and policies established by administrative action are allowed to continue with no statutory base. Under the Legislative Reorganization Act, substantive legislative guides are required to be handled by substantive law. In many cases, there are no program guides. Until these are established, it is important that the Committees charged with authorizing programs have an opportunity to establish a program level each year.

It is not the intention of the Committee to endanger ongoing programs with no opportunity for submission of recommendations to

Congress. For this reason, the effective date of this subsection is placed over two years in the future.

Subsection (*b*) repeals, effective July 1, 1974, 115 early settlement statutes and other public land laws no longer relevant. If the policy declarations of this title are to be carried into effect, and the public land management procedures prescribed herein are to be followed, there will be no further need for these disposal laws. Valid existing rights are preserved. Public lands henceforth generally will be retained and on those occasions when disposal is indicated under the criteria established in H.R. 7211, it is anticipated that a modern, uniform statute authorizing sale and exchange will supplant these laws.

Subsection (*c*) repeals all authority to withdraw or reserve public lands, "whether granted by statute, acquiesence, or implication," except as provided for under section 405 and in two sections of the Alaska Native Claims Settlement Act.

Examples of the types of authority repealed are reclamation withdrawals pursuant to section 3 of the Act of June 17, 1902 (43 U.S.C. 416); section 2 of the Antiquities Act, the Act of June 8, 1906 (16 U.S.C. 431); the General Withdrawal Act of June 25, 1910 (commonly known as the Pickett Act) (43 U.S.C. 141); the power site withdrawal authority contained in the Act of June 10, 1920 (16 U.S.C. 818); and the withdrawal effect contained in section 1 of the Act of June 28, 1934, the Taylor Grazing Act (43 U.S.C. 315).

Until such time as land use plans are prepared pursuant to section 403, if it is necessary for any reason to segregate lands from the operation of the public land laws, the withdrawal authority contained in section 405 is expected to be relied upon.

Taken together with the policy declarations contained in section 401(a) (3) and (4) as to both review of existing withdrawals and procedure for making future withdrawals, the review provisions of section 404, and the procedures spelled out in section 405, this section completes statutory action required to phase out the use of withdrawals as a land management tool and permit the substitution of land use planning, including classification, as recommended by the Public Land Law Review Commission.

The Committee wants it made perfectly clear that the intent of these provisions is to enact into law the Commission recommendations referred to and those related thereto and nothing more. It is not the intention of the Committee to endanger such permanent dedications of land as those of the National Park, Forest, and Wildlife Refuge Systems. On the contrary, it is the intent of the Committee to strenthen these systems by providing a statutory base not subject to Executive revocation. In order to attain the overall land use planning goals of the Act, it will be necessary to review all of the public lands, including those subject to varying withdrawal orders. Once the review is carried out, Congress will be in a position to act in concert with the Executive in providing such future legislation as is required, including permanent dedication. This is the purpose of H.R. 7211.

Subsection (*d*) provides that the bill shall not be construed to change other planning programs or affect authorities except as required to carry out the provisions of H.R. 7211, or as superceding, modifying, or repealing existing responsibilities and jurisdictions.

Section 503—Definitions

The eighteen definitions in this section generally fall into two categories: Those concerning the four categories of critical areas and uses that would require methods of identification or control under section 201(c)(7), including "areas of critical environmental concern", "development and land use of regional benefit", "large-scale development", and "key facilities". Related to these terms are "coastal zones" and "estuary"; and those technical terms relating to the management of the public lands, such as "public lands", "public land management agency", "agency head", "classify", "multiple use", "nonresource use", "sustained yield", and "withdrawal".

The terms "State", "interstate agency", and "public involvement" are referred to often in the bill, as is "Secretary", meaning the Secretary of the Interior throughout unless otherwise indicated in the text of the bill.

COST OF THE LEGISLATION

In compliance with clause 7 of Rule XIII of the Rules of the House of Representatives, the Committee estimates the following costs will be incurred in carrying out the provisions of H.R. 7211:

[In millions]

	Current fiscal year	Fiscal year 1974–78
Title II—National land-use planning: Federal grants to the States		$204
Title III—Administration and coordination: Maintaining Office of Land Use Policy and Planning Administration, including administration of grant program, information and data center, studies, and support for Policy and Planning Board, and advisory groups	$2	48
Title IV—Public land management: Inventory and planning, ascertaining boundaries, reviewing withdrawals, and law enforcement	2	173
Total	$4	$425

H.R. 7211 is based in part upon legislation submitted to the Congress by the Executive branch, particularly H.R. 4332 and H.R. 10049. H.R. 4332, the proposed National Land Use Policy Act, provided for annual planning grants of $20 million with a five-year total being $100 million, rather than the $204 million authorized in H.R. 7211. The difference is largely attributable to the facts that (a) the programs to be developed by the States under H.R. 7211 include not only the selective areas and controls provided for in H.R. 4332, but also a comprehensive land use planning process; and (b) grants did not exceed 50 percent in H.R. 4332, whereas they are for 90 percent the first year and 75 percent the next two succeding years in H.R. 7211.

In submitting both H.R. 4332 and H.R. 10049, the proposed National Resource Land Management Act, the Executive branch provided for appropriation authorizations of "such sums as are necessary to carry out the purposes" of the legislation, but no dollar amounts were included.

By letter of July 17, 1972, the Department of the Interior responded to a request of the Committee for an estimate of the cost of administering H.R. 7211. Exclusive of the grants to the States, these estimates exceed those of the Committee by nearly $150 million annually.

Of the $194.6 million of the Department's estimated annual cost, $144 million was allocated to "ascertain boundaries of public lands" pursuant to section 402(b).

The Committee agrees that this is an important responsibility, but since the cadastral survey program is presently in being, funded at the level of $7 million annually, the Committee believes the Department's estimate of $144 million is unrealistic. The Committee suggests that $11 million be allocated to this function, representing a reasonable expansion of the Department's current responsibilities.

Somewhat similar situations obtain with respect to other estimates provided by the Department. For example, the cost of supporting the local advisory councils authorized by section 307 will not differ greatly from the support given to advisory bodies currently in existence. The review of withdrawals required under section 404 is another long-standing responsibility of the Department. H.R. 7211 contemplates that this review be assigned a priority so that it may be completed within ten years, but it otherwise makes no new demands.

In summary, the Committee believes the departmental estimates to be excessive, and it suggests many of them may be improperly attributable to H.R. 7211.

COMMITTEE RECOMMENDATION

The Committee on Interior and Insular Affairs recommends the enactment of H.R. 7211 as amended. The motion ordering the bill reported favorably was adopted by a roll call vote June 14, 1972, with 23 votes cast for and seven votes cast against.

EXECUTIVE COMMUNICATIONS

The following communications, including proposed legislation and reports from the various Federal departments and agencies on several public land policy and national land use planning bills, were received by the Committee from the Executive branch.

U.S. Department of the Interior,
Office of the Secretary,
Washington, D.C., February 11, 1971.

Hon. Carl Albert,
Speaker of the House of Representatives,
Washington, D.C.

Dear Mr. Speaker: Enclosed is a draft of a proposed bill "To establish a national land use policy to authorize the Secretary of the Interior to make grants to encourage and assist the States in the preparation and implementation of land use programs for the protection of areas of critical environmental concern and the control and direction of growth and development of more than local significance and for other purposes."

We recommend that the bill be referred to the appropriate committee for consideration and we recommend that it be enacted.

This legislative proposal was referred to in President Nixon's message on the environment, which was submitted to the Congress on February 8, 1971. In it President Nixon stated:

"The use of our land not only affects the natural environment but shapes the pattern of our daily lives. Unfortunately, the sensible use

of our land is often thwarted by the inability of the many competing and overlapping local units of government to control land use decisions which have regional significance.

"While most land use decisions will continue to be made at the local level, we must draw upon the basic authority of State government to deal with land use issues which spill over local jurisdictional boundaries. The States are uniquely qualified to effect the institutional reform that is so badly needed, for they are closer to the local problems than is the Federal Government and yet removed enough from local tax and other pressures to represent the broader regional interests of the public. Federal programs which influence major land use decisions can thereby fit into a coherent pattern."

The proposed bill encourages the States to exercise their responsibility more fully to deal with certain critical land use problems of more than local impact. Under the proposal Federal grants would be made to assist States in developing and managing land use programs. Grants for up to 50% of cost would be made to develop State land use programs, including plans covering selected areas, and laws or regulations necessary to implement the program.

Grants would also be made for up to 50% of the cost of managing State land use programs which meet certain requirements set forth in the draft bill. For example, the programs should include methods for inventorying, designating and exercising control over the use of land within areas of critical environmental concern or areas impacted by key facilities, as well as methods for controlling large-scale development and methods for assuring that local laws and regulations do not restrict development of regional benefit, and for controlling land use around new communities.

The proposed bill authorizes the President to designate an agency to issue guidelines to assist Federal agencies in carrying out the requirements of this Act. I understand that the President intends to give this responsibility to the Council on Environmental Quality.

While the Department of the Interior is assigned the primary responsibility for the administration of this program, the Department of Housing and Urban Development will share this responsibility with regard to those aspects of the State land use program dealing with large-scale development, key facilities, development and land use of regional benefit and new communities.

A section-by-section analysis of the bill is enclosed.

The Office of Management and Budget has advised that enactment of this proposed legislation would be in accord with the program of the President.

Sincerely yours,

ROGERS C. B. MORTON,
Secretary of the Interior.

A BILL To establish a national land use policy; to authorize the Secretary of the Interior to make grants to encourage and assist the States to prepare and implement land use programs for the protection of areas of critical environmental concern and the control and direction of growth and development of more than local significance; and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Land Use Policy Act of 1971."

FINDINGS AND DECLARATIONS OF POLICY

SEC. 101. (a) The Congress hereby finds and declares that decisions about the use of land significantly influence the quality of the environment, and that present State and local institutional arrangements for planning and regulating land use of more than local impact are inadequate, with the result:

(1) that important ecological, cultural, historic and aesthetic values in areas of critical environmental concern which are essential to the well-being of all citizens are being irretrievably damaged or lost;

(2) that coastal zones and estuaries, flood plains, shorelands and other lands near or under major bodies or courses of water which possess special natural and scenic characteristics are being damaged by ill-planned development that threaten these values;

(3) that key facilities such as major airports, highway interchanges, and recreational facilities are inducing disorderly development and urbanization of more than local impact;

(4) that the implementation of standards for the control of air, water, noise and other pollution is impeded;

(5) that the selection and development of sites for essential private development of regional benefit has been delayed or prevented;

(6) that the usefulness of Federal or federally-assisted projects and the administration of Federal programs are being impaired;

(7) that large-scale development often creates a significant adverse impact upon the environment.

(b) The Congress further finds and declares that there is a national interest in encouraging the States to exercise their full authority over the planning and regulation of non-Federal lands by assisting the States, in cooperation with local governments, in developing land use programs including unified authorities, policies, criteria, standards, methods and processes for dealing with land use decisions of more than local significance.

DEFINITIONS

SEC. 102. For purposes of this Act: (a) "Areas of critical environmental concern" are areas where uncontrolled development could result in irreversible damage to: important historic, cultural, or aesthetic values, or natural systems or processes, which are of more than local significance; or life and safety as a result of natural hazards of more than local significance. Such areas shall include:

(1) coastal zones and estuaries: "Coastal zones" means the land, waters, and lands beneath the waters in close proximity to the coastline (including the Great Lakes) and strongly influenced by each other, and which extend seaward to the outer limit of the United States territorial sea and include areas influenced or affected by water from an estuary such as, but not limited to, salt marshes, coastal and intertidal areas, sounds, embayments, harbors, lagoons, inshore waters, channels, and all other coastal wetlands. "Estuary" means the part of the mouth of a river or stream or other body of water having unimpaired natural connection with the open sea and within which the sea water is measureably diluted with fresh water derived from land drainage.

(2) shorelands and flood plains of rivers, lakes and streams of State importance;

(3) rare or valuable ecosystems;

(4) scenic or historic areas; and

(5) such additional areas of similar valuable or hazardous characteristics which a State determines to be of critical environmental concern.

(b) "Key facilities" are public facilities which tend to induce development and urbanization of more than local impact and include the following:

(1) any major airport that is used or is designed to be used for instrument landings;

(2) interchanges between the Interstate Highway System and frontage access streets or highways; major interchanges between other limited access highways and frontage access streets or highways; and

(3) major recreational lands and facilities.

(c) "Development and land use of regional benefit" includes land use and private development for which there is a demonstrable need affecting the interests of constituents of more than one local government which outweighs the benefits of any applicable restrictive or exclusionary local regulations.

(d) "State" includes the 50 States of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Virgin Islands.

PROGRAM DEVELOPMENT GRANTS

SEC. 103. (a) The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to make not more than two annual grants to each State to assist that State in developing a land use program meeting the requirements set forth in section 104 of this Act. Such grants shall not exceed 50 percent of the costs of program development. Prior to making the first grant, the Secretary shall be satisfied that such grant will be used in development of a land use program meeting the requirements set forth in section 104. Prior to making a second grant, the Secretary shall be satisfied that the State is adequately and expeditiously proceeding with the development of a land use program meeting the requirements of section 104.

(b) States receiving grants pursuant to this section shall submit to the Secretary not later than 1 year after the date of award of the grant a report on work completed toward the development of a State land use program. A State land use program meeting the requirements of section 104 of this Act shall satisfy the requirements for such a report.

(c) The authority to make grants under this section expires three years from date of enactment.

PROGRAM MANAGEMENT GRANTS

SEC. 104. Following his review of a State's land use program, the Secretary is authorized to make a grant to that State to assist it in managing the State land use program. Successive grants for this purpose may be made annually to any State resubmitting its land use program for review by the Secretary. Grants made pursuant to this section shall not exceed 50 percent of the cost of managing the land

use program. Grants authorized by this section shall be made by the Secretary only if, in his judgment:

(a) the State's land use program includes—

(1) a method for inventorying and designating areas of critical environmental concern;

(2) a method for inventorying and designating areas impacted by key facilities;

(3) a method for exercising State control over the use of land within areas of critical environmental concern and areas impacted by key facilities;

(4) a method for assuring that local regulations do not restrict or exclude development and land use of regional benefit;

(5) a policy for influencing the location of new communities and a method for assuring appropriate controls over the use of land around new communities;

(6) a method for controlling proposed large-scale development of more than local significance in its impact upon the environment;

(7) a system of controls and regulations pertaining to areas and developmental activities previously listed in this subsection which are designed to assure that any source of air, water, noise or other pollution will not be located where it would result in a violation of any applicable air, water, noise or other pollution standard or implementation plan;

(8) a method for periodically revising and updating the State land use program to meet changing conditions; and

(9) a detailed schedule for implementing all aspects of the program.

For purposes of complying with paragraphs (1) through (7) of this subsection (a), any one or a combination of the following general techniques is acceptable: (i) State establishment of criteria and standards subject to judicial review and judicial enforcement of local implementation and compliance; (ii) direct State land use planning and regulation; (iii) State administrative review of local land use plans, regulations and implementation with full powers to approve or disapprove.

(b) in designating areas of critical environmental concern, the State has not excluded any areas of critical environmental concern to the Nation.

(c) in controlling land use in areas of critical environmental concern to the Nation, the State has procedures to prevent action (and, in the case of successive grants, the State has not acted) in substantial disregard for the purposes, policies and requirements of its land use program.

(d) State laws, regulations and criteria affecting areas and developmental activities listed in subsection (a) of this section are in accordance with the policy, purpose and requirements of this Act; and that State laws, regulations and criteria affecting land use in the coastal zone and estuaries further take into account:

(1) the esthetic and ecological values of wetlands for wild life habitat, food production sources for aquatic life, recreation, sedimentation control, and shoreland storm protection; and

(2) the susceptibility of wetlands to permanent destruction through draining, dredging, and filling, and the need to restrict such activities.

(e) the State is organized to implement its State land use program.

(f) the State land use program has been reviewed and approved by the Governor.

(g) the Governor has appropriate arrangements for administering the land use program management grant.

(h) the State, in the development, revision, and implementation of its land use program, has provided for adequate dissemination of information and for adequate public notice and public hearings.

(i) the State has:

(1) coordinated with metropolitan-wide plans existing on January 1 of the year in which the State land use program is submitted to the Secretary, which plans have been developed by an area-wide agency designated pursuant to regulations established under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966;

(2) coordinated with appropriate neighboring States with respect to lands and waters in interstate areas;

(3) taken into account the plans and programs of other State agencies and of Federal and local governments.

(j) the State utilizes for the purpose of furnishing advice to the Federal Government as to whether Federal and Federally-assisted projects are consistent with the State land use program, procedures established pursuant to section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 and Title IV of the Intergovernmental Cooperation Act of 1968.

FEDERAL REVIEW OF GRANT APPLICATIONS AND STATE LAND USE PROGRAMS

SEC. 105. (a) The Secretary before making a program management grant pursuant to section 104, shall consult with the heads of all Federal agencies which conduct or participate in construction, development or assistance programs significantly affecting land use in the State, and shall consider their views and recommendations. The Secretary shall not approve a grant pursuant to section 104 until he has ascertained that the Secretary of Housing and Urban Development is satisfied that those aspects of the State's land use program dealing with large-scale development, key facilities, development and land use of regional benefit, and new communities meet the requirements of section 104 for funding of a program management grant.

(b) The Secretary shall take final action on a State's application for a grant authorized under section 104 not later than six months following receipt for review of the State's land use program.

CONSISTENCY OF FEDERAL ACTIONS WITH STATE LAND USE PROGRAMS

SEC. 106. (a) Federal projects and activities significantly affecting land use shall be consistent with State land use programs funded under section 104 of this Act except in cases of overriding national interest.

Program coverage and procedures provided for in regulations issued pursuant to section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 and Title IV of the Intergovernmental Cooperation Act of 1968 shall be applied in determining whether Federal projects and activities are consistent with State land use programs funded under section 104 of this Act.

(b) After December 31, 1974, or the date the Secretary approves a grant under section 104, whichever is earlier, Federal agencies submitting statements required by Section 102(2)(C) of the National Environmental Policy Act shall include a detailed statement by the responsible official on the relationship of proposed actions to any applicable State land use program which has been found eligible for a grant pursuant to section 104 of this Act.

FEDERAL ACTION IN THE ABSENCE OF STATE LAND USE PROGRAMS

SEC. 107. Where any major Federal action significantly affecting the use of non-Federal lands is proposed after December 31, 1974, in a State which has not been found eligible for a program management grant pursuant to section 104 of this Act, the responsible Federal agency shall hold a public hearing in that State at least 180 days in advance of the proposed action concerning the effect of the action on land use taking into account the relevant considerations set out in section 104 of this Act, and shall make findings which shall be submitted for review and comment by the Secretary, and where appropriate, by the Secretary of Housing and Urban Development. Such findings of the responsible Federal agency and comments of the Secretary or the Secretary of Housing and Urban Development shall be part of the detailed statement required by Section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4321 et seq.). This section shall be subject to exception where the President determines that the interests of the United States so require.

AVAILABILITY OF FEDERAL EXPERTISE

SEC. 108. (a) The Secretary shall provide advice upon request to States concerning the designation of areas of critical environmental concern to the Nation.

(b) Federal agencies with data or expertise relative to land use and conservation shall take appropriate measures, subject to appropriate arrangements for payment or reimbursement, to make such data or expertise available to States for use in preparation, implementation, and revision of State land use programs.

GUIDELINES

SEC. 109. The President is authorized to designate an agency or agencies to issue guidelines to the Federal agencies to assist them in carrying out the requirements of this Act.

ALLOCATION OF FUNDS

SEC. 110. (a) Funds for grants authorized by sections 103 and 104 of this Act shall be allocated to the States based on regulations issued by

the Secretary which shall take into account State population and growth; nature and extent of coastal zones and estuaries and other areas of critical environmental concern and other relevant factors.

(b) No grant funds shall be used to acquire real property.

(c) A refusal by the Secretary to provide a program development or program management grant authorized by this Act shall be in writing.

MISCELLANEOUS

SEC. 111. (a) The Secretary shall develop, after appropriate consultation with other interested parties, both Federal and non-Federal, such rules and regulations covering the submission and review of applications for grants authorized by sections 103 and 104 as may be necessary to carry out the provisions of this Act.

(b) A State receiving a grant under the provisions of section 103 or 104 of this Act, the agency designated by the Governor to administer such grant, and State agencies allocated a portion of a grant shall make reports and evaluations in such form, at such times, and containing such information concerning the status and application of Federal funds and the operation of the approved management program as the Secretary may require, and shall keep and make available such records as may be required by the Secretary for the verification of such reports and evaluations.

(c) The Secretary, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for purposes of audit and examination, to any books, documents, papers, and records of a grant recipient that are pertinent to the grant received under the provisions of section 103 or 104 of this Act.

(d) Nothing herein shall be interpreted to extend the territorial jurisdiction of any State.

(e) Nothing herein shall be construed to imply Federal consent to or approval of any State or local actions which may be required or prohibited by other Federal statutes or regulations.

APPROPRIATION AUTHORIZATION

SEC. 112. (a) There are hereby authorized to be appropriated not to exceed $20,000,000 in each fiscal year, 1972 through 1976, for grants authorized by sections 103 and 104 of this Act, such funds to be available until expended.

(b) There are hereby authorized to be appropriated such sums as may be necessary tor the Secretary of the Interior and the Secretary of Housing and Urban Development to administer the program established by this Act.

SECTION-BY-SECTION ANALYSIS

The proposed bill would establish a National Land Use Policy to encourage the States to plan and regulate land use in certain critical areas.

Section 101 declares Congressional findings that present State and local institutional arrangements for planning and regulating land use are inadequate and have resulted in haphazard land development and

the loss of important environmental values. It is in the national interest to encourage and assist the States in strengthening the institutional framework for planning and controlling the use of non-Federal lands.

Section 102 contains definitions. "Areas of critical environmental concern" are areas where uncontrolled development could result in irreversible damage to important values. Such areas include coastal zones and estuaries and other similar areas. "Key facilities" are public facilities which tend to induce development of more than local impact, such as airports and highway interchanges. "Development and land use of regional benefit" means private development, the regional need for which outweighs a local conflicting interest.

Section 103 authorizes the Secretary of the Interior to make two successive annual grants of up to 50% of the cost to States of developing a land use program. Prior to receiving the second grant, the State must submit a report of its progress in developing a program.

Section 104 authorizes the Secretary to make grants of up to 50% of the cost to States of managing their land use program. Such grants will be made only if the State program, in the Secretary's judgment, meets certain specified criteria. It must include methods for inventorying, designating and exercising State control over areas of critical environmental concern and areas impacted by key facilities, a method for assuring that local regulations do not restrict land use and private development of regional benefit, a policy for influencing the location of new communities, a method for controlling the use of land around new communities, a method for controlling proposed large-scale development of more than local impact on the environment and a detailed schedule for implementing all aspects of the program. The program must not exclude areas of critical environmental concern to the Nation and must take into account the unique values and fragile nature of coastal zones and estuaries, particularly coastal wetlands. The program must also meet certain other organizational and procedural requirements.

Section 105 requires the Secretary to consult with Federal agencies with activities or programs affecting land use before making a program management grant. The Secretary shall not approve such a grant unless the Secretary of Housing and Urban Development is satisfied that those aspects of the State land use program dealing with large-scale development and key facilities, development and land use of regional benefit, and new communities meet the requirements of section 104. The Secretary shall act on a program management grant application within 6 months after receipt of the State's land use program.

Section 106 establishes a requirement for consistency of Federal projects and activities with State land use programs. It also requires that Federal agencies submitting environmental statements pursuant to the National Environmental Policy Act include a detailed statement of the relationship of the proposed Federal action to any applicable State land use program which has been found eligible for a management grant.

Section 107 requires that where a State has not been found eligible for a management grant, any major Federal action significantly affecting the use of non-Federal lands proposed after December 31, 1974, must be preceded by a public hearing at least 180 days before the proposed action, followed by detailed findings upon which the Secre-

taries of the Interior or Housing and Urban Development will be allowed to comment, unless the President determines that the interests of the United States are to the contrary.

Section 108 authorizes the Secretary to provide advice upon request to States about areas of critical environmental concern to the Nation and directs Federal agencies to share pertinent expertise with the States.

Section 109 authorizes the President to designate an agency to issue guidelines to assist Federal agencies carrying out their responsibilities under the Act.

Section 110 authorizes the Secretary to allocate grant funds to the States on the basis of State population and growth, extent of coastal areas and areas of critical environmental concern and other relevant factors. No grant funds shall be used by the State to acquire real property.

Section 111 authorizes the Secretary to develop, in consultation with other interested parties, rules and regulations covering the submission and review of grant applications and to require reports concerning the status and operation of the program. It requires that certain records be kept and authorizes the Secretary and the Comptroller General to audit and examine such records. It further provides that nothing in this Act shall extend State territorial jurisdiction or be construed to conflict with other Federal statutes or regulations.

Section 112 authorizes the appropriation of $20 million in each fiscal year 1972 through 1976 for grants to States. It further authorizes the appropriation of such sums as necessary for the Departments of Interior and Housing and Urban Development to administer the program.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., July 20, 1971.

Hon. CARL ALBERT,
Speaker of the House of Representatives,
Washington, D.C. 20515

DEAR MR. SPEAKER: Enclosed is a draft bill "To provide for the management, protection, and development of the national resource lands and for other purposes."

We recommend that the proposed bill be referred to the appropriate committee and that it be enacted.

In his message to Congress on the environment early this year, President Nixon stated:

"The Federal public lands comprise approximately one-third of the Nation's land area. This vast domain contains land with spectacular scenery, mineral and timber resources, major wildlife habitat, ecological significance, and tremendous recreational importance. In a sense, it is the 'breathing space' of the Nation.

"The public lands belong to all Americans. They are part of the heritage and the birthright of every citizen. It is important, therefore, that these lands be managed wisely, that their environmental values be carefully safeguarded, and that we deal with these lands as trustees for the future. They have an important place in national land use considerations."

This bill represents an historic proposal. The Department is proposing legislation which, for the first time, would state the national policies

governing the use and management of 450 million acres of the public domain and provides specific guidelines for the management of these vast lands.

Simply put the bill declares a national policy that these lands be managed under the principles of multiple use and sustained yield in a manner which will, using all practicable means and measures, protect the quality of the environment. It is also declared in the national interest that these lands be held in Federal ownership and that disposal be authorized only when the management of the public domain would be significantly improved, or when such disposal would serve important public objectives which cannot be prudently and feasibly achieved on non-Federal lands. This then sets a guiding principle for management in perpetuity.

In a very real sense the story of this country's growth and development is the story of the public domain. At one time the Federal government owned 80% of the present land mass of the United States. Thirty-one States were created out of public domain, railroads, schools, and other public works built, and much of the West was settled by grants of public land. For these and other purposes 1.1 billion acres of some of the richest land in this country was transferred out of Federal ownership.

Although the primary objective of Congress was to get Federal land into private ownership, it also recognized at an early date that certain natural resources should be preserved for the enjoyment of the Nation as a whole and generations to come. In 1872 Yellowstone National Park was created. In succeeding years, 18 million acres of public land became National Parks, 160 million acres became National Forests, and 2.3 million acres became wildlife refuges.

Today roughly 450 million acres of public domain remain without specific statutory designation. And while the Nation has come to regard this land as a permanent national asset to be, for the most part, retained and managed on a multiple use, sustained yield basis, the basic management tools available for this purpose remain those that were forged when Federal ownership was expected to be short-lived, and when the Federal role was that of a temporary custodian.

From 1812 to 1946 the principal custodian of the public land was the General Land Office. Its job was primarily to survey the land and convey it to successful applicants.

In 1934, the Taylor Grazing Act brought a measure of protection and management to the unreserved public domain. Among other things, this Act authorized the establishment of grazing districts to provide more orderly use of the public range lands. The Grazing Service was created to administer the grazing district management program. The General Land Office was given authority to classify public lands for disposal.

In 1946 by executive reorganization, the General Land Office and the Grazing Service were merged into the Bureau of Land Management.

Within the Department of the Interior the Bureau of Land Management has the responsibility to manage the 450 million acres of unreserved public land. In addition, BLM has some surface management responsibilities on millions of acres withdrawn for programs of other Federal agencies such as the Bureau of Reclamation, the Bureau of Sport Fisheries and Wildlife, and the Department of Defense. BLM and the Geological Survey have joint responsibilities for administra-

tion of the mineral laws on all public domain and acquired lands (including national forests and wildlife refuges), reserved mineral interests—more than 800,000,000 acres in total—and on the Outer Continental Shelf. BLM also keeps the basic public land records and does land boundary surveys for most Federal lands. Lands administered by BLM amount to about 60% of all Federal lands.

Despite the enormous responsibilities of the BLM, the definition of its mission and the authority to accomplish it have never been comprehensively enunciated by Congress. Rather its mission and authority must be gleaned from some three thousand land laws which have accumulated over some 170 years and which are often at cross purposes.

In 1964 Congress passed three laws as a first step in the process of placing land management on an up-to-date, rational basis. The Public Land Law Review Commission Act established a commission to review the entire body of the land laws and administrative practices and recommend modifications in them to best enable the public land to be retained and managed, or disposed of, all for the maximum benefit to the general public. The Classification and Multiple Use Act authorized BLM to classify the public lands for disposal or retention for multiple use management. The Public Land Sale Act allowed sale of public land which was chiefly valuable for certain specified uses. The latter two Acts expired on December 23, 1970.

The Classification and Multiple Use Act and the Public Land Sale Act were intended as interim measures, pending evaluation and possible implementation of the PLLRC recommendations. When they expired on December 23, 1970, the Bureau of Land Management returned to the Taylor Grazing Act of 1934 for its basic classification authority. Since the Taylor Grazing Act does not apply to public lands in Alaska, the Department is without that essential management authority in that State.

During the six year life of the Classification and Multiple Use Act, 177 million acres were classified for multiple use management while roughly 3.5 million acres of land were classified for disposal. Two hundred and sixty two million acres remain unclassified, almost all of which is in Alaska.

The comprehensive management authority we are proposing for the public lands is in accord with many of the recommendations of the Public Land Law Review Commission, and would continue on a permanent basis the concepts approved by Congress in the two Acts which expired on December 23, 1970. It would provide for the first time a clear and comprehensive definition of the Department's mission with respect to these lands.

The proposed act would apply to all lands administered by the Department through the Bureau of Land Management including the revested Oregon and California Railroad lands and reconveyed Coos Bay Wagon Road lands in Oregon. It would adopt the name National Resource lands to designate adequately their importance.

The proposed act is designed to provide a broad framework for any legislative proposals dealing with specific uses or resources which may be made in the future. For this reason, it should be an initial step in any legislative program to reform the land laws.

It directs the Secretary of the Interior to inventory the national resource lands and to develop comprehensive land use plans for such

lands giving priority to lands in critical environmental areas, which is defined to include among others flood plains, coastal zones and scenic or historic areas. The inventory will give priority to such critical resources as clean burning fossil fuels to assist this Nation's efforts to combat pollution. The identification of the most critical environmental areas will be given a high priority by this Department so that those areas may be given the protection they so urgently need. A thorough knowledge of the resources we possess and purposeful plans for their use will greatly assist us to arrest the destruction we have too long and too carelessly inflicted on our natural resources. The national resource lands are in a real sense our last frontier. We cannot affort to squander their riches.

The proposed bill would repeal the hodge-podge of land disposal laws and replace them with a modern disposal law authorizing the Secretary to sell for fair market value those lands meeting the standards set forth in the proposed bill.

The Mining and Mineral Leasing Laws and certain special purpose land disposal laws, including the Recreation and Public Purposes Act, would not be repealed, although this Act would govern the exercise of Secretarial discretion under those and any other laws.

Equally important to land management is the authority to acquire lands necessary for authorizing programs, or for blocking up existing land holdings. One traditional method of doing this, land exchanges, is retained with the modification that where the lands are not of equal value, the value may be equalized by cash payment. This acquisition authority is not intended to initiate a major acquisition program.

The proposed bill would significantly enhance the management of the national resource lands by making violation of laws or regulations pertaining to them a crime and by vesting enforcement authority in certain designated Departmental employees.

The authority granted by the Act would pass to the Secretary of Natural Resources upon establishment of the Department of Natural Resources as proposed by President Nixon. The Act would not affect the present funding of operations on or the distrubition of receipts from the national resource lands.

The national resource lands are a priceless and irreplaceable national asset. It is time to provide the Department of the Interior with the tools to manage and preserve them in accordance with their value to the American people.

The Office of Management and Budget has advised that enactment of this proposed legislation would be in accord with the program of the President.

Sincerely yours,

ROGERS C. B. MORTON,
Secretary of the Interior.

Enclosure.

A BILL To provide for the management, protection, and development of the national resource lands, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That this Act may be cited as the "National Resource Land Management Act of 1971."

SEC. 2. Definitions. As used in this Act:

(a) "The Secretary" means the Secretary of the Interior.

(b) "National resource lands" means all lands and interests in lands (including the renewable and nonrenewable resources thereof) now or hereafter administered by the Secretary through the Bureau of Land Management, except the Outer Continental Shelf.

(c) "Multiple use" means the management of the natural resource lands and their various surface and subsurface resources so that they are utilized in the combination that will best meet the present and future needs of the American people; the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; the use of some land for less than all of the resources; a combination of resource uses that takes into account the long term needs of future generations for nonrenewable resources and the achievement of diversity and balance for renewable resources; and harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land or undue damage to irreplaceable values, with consideration being given to the relative values of the resources, and not necessarily the combination of uses that will give the greatest economic return or the greatest unit output.

(d) "Sustained yield" means the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of land without impairment of the productivity of the land.

(e) "Areas of critical environmental concern" means areas where uncontrolled use or development could result in irreversible damage to: important historic, cultural, or aesthetic values, or natural systems or processes, or life and safety as a result of natural hazards. Such areas shall include:

(1) Coastal zones and estuaries: "Coastal zones" means the land, waters, and lands beneath the waters in close proximity to the coastline (including the Great Lakes) and strongly influenced by each other, and include areas influenced or affected by water from an estuary such as, but not limited to, salt marshes, coastal and intertidal areas, sounds, embayments, harbors, lagoons, inshore waters, channels, and all other coastal wetlands. "Estuary" means the part of the mouth of a river or stream or other body of water having unimpaired natural connection with the open sea and within which the sea water is measurably diluted with fresh water derived from land drainage;

(2) Shorelands and flood plains of rivers, lakes and streams;

(3) Rare or valuable ecosystems;

(4) Scenic or historic areas; and

(5) Such additional areas of similar valuable or hazardous characteristics which the Secretary determines to be of critical environmental concern.

SEC. 3. Declaration of Policy. (a) Congress hereby declares that the national resource lands are a vital national asset containing a wide variety of natural resource values and that the national interest will best be served by retaining the national resource lands in Federal ownership except where the Secretary determines that disposal of particular tracts of national resource lands is consistent with the purposes, terms and conditions of this Act.

(b) Congress hereby directs that the Secretary shall manage the national resource lands under principles of multiple use and sustained

yield in a manner which will, using all practicable means and measures, protect the environmental quality of the national resource lands to assure their continued value for present and future generations.

SEC. 4. The use, occupancy or development of any portion of the national resource lands contrary to any regulation of the Secretary or contrary to any order issued pursuant to any such regulations is unlawful and prohibited.

SEC. 5. Inventory. The Secretary shall prepare and maintain on a continuing basis an inventory of all national resource lands and their resources giving priority to areas of critical environmental concern. This inventory shall reflect changes in conditions and in identifications of resource values.

SEC. 6. Land Use Plans. (a) The Secretary shall with public participation develop, maintain, and, when appropriate, revise land use plans for the national resource lands consistent with the terms and conditions of this Act and coordinated so far as he finds feasible and proper, or as may be required by the National Land Use Policy Act of 1971 or other law, with the land use plans of State and local governments and other Federal agencies.

(b) In the development and maintenance of land use plans, the Secretary shall:

(1) Use a systematic interdisciplinary approach to achieve integrated consideration of physical, biological, economic and social sciences;

(2) Give priority to the designation of areas of critical environmental concern;

(3) Rely, to the extent it is available, on the inventory of the national resource lands and their resources;

(4) Consider all present and potential uses of the lands;

(5) Consider the relative scarcity of the values involved and the availability of alternative means including the need for recycling and sites for realization of those values;

(6) Weigh long-term public benefits against more immediate local or individual benefits; and

(7) Consider the requirements of applicable pollution control laws including state or federal air or water quality standards and implementation plans.

SEC. 7. Management. (a) The Secretary shall manage the national resource lands in accordance with the policies and procedures of this Act and with any applicable land use plans which he has prepared except to the extent that other applicable law requires the Secretary to take specific actions. Such management shall include:

(1) The regulation of all use, occupancy or development, through permits, licenses or such other form of authorization as the Secretary deems appropriate;

(2) Requiring land reclamation as a condition of use, and requiring performance bonds guaranteeing such reclamation of any person permitted to engage in extractive or other activity likely to entail significant disturbance to or alteration of the land;

(3) Inserting in permits, licenses or other authorizations to use, occupy or develop the national resource lands provision authorizing revocation or suspension upon violation of any regulations issued by the Secretary under this Act or upon violation of any applicable

state or Federal air or water quality standard and implementation plans; and

(4) The prompt development of regulations for the protection of areas of critical environmental concern.

SEC. 8. Sale of Land. (a) Except as otherwise provided by law, the Secretary is authorized to sell national resource lands when he finds that such sale will (1) lead to a significant improvement in the management of the national resource lands, or (2) serve important public objectives which cannot be achieved prudently and feasibly on land other than national resource lands. Sales of national resource lands under this Act shall be at not less than the appraised fair market value and shall be in accord with land use plans when such plans have been prepared.

(b) The Secretary shall determine and establish the size of tracts to be sold on the basis of the land use capabilities and development requirements of the lands.

(c) Sales of land under this Act shall be conducted under competitive bidding procedures to be established by the Secretary, except that where he determines it necessary and proper (1) to assure fair distribution among purchasers of national resource lands, or (2) to recognize equitable considerations or public policies, including but not limited to a preference right to users, he is authorized to sell national resource lands without competitive bidding, or with modified competitive bidding. In no event shall the lands be sold for less than the appraised fair market value as determined by the Secretary.

(d) Until the Secretary has accepted an offer to purchase, he may refuse to accept any offer or may withdraw any land from sale under this Act when he determines that consummation of the sale would not be in the public interest.

(e) At the end of each fiscal year the Secretary shall report to Congress all sales of national resource lands conducted by him during such fiscal year.

SEC. 9. Conditions in Conveyances. (a) Except where the Secretary finds that (1) there are no mineral values in the land or (2) reservation of the mineral rights in the United States would interfere with or preclude the appropriate development of the land and that such development is a more beneficial use of the land than mineral development, all conveyances of title issued by the Secretary under this Act shall reserve to the United States all mineral deposits in the lands, together with the right to prospect for, mine, and remove the deposits under applicable law and such regulations as the Secretary may prescribe.

(b) The Secretary shall insert in any patent or other documents of conveyance he issues under this Act such terms, covenants and conditions as he deems necessary to insure proper land use, environmental integrity and protection of the public interest. In the event any area which the Secretary has identified as an area of critical environmental concern is conveyed out of Federal ownership, the Secretary shall provide for the continued protection of such area in the patent or other document of conveyance.

SEC. 10. Acquisition of Land. (a) When public interests will be benefitted thereby the Secretary is authorized to acquire by purchase, exchange, donation or otherwise such lands or interests therein including, but not limited to, the provision of access by the general public to

national resource lands. Such acquisitions shall be consistent with such land use plans as may apply to the area involved.

(b) Purchases designed primarily to provide outdoor recreation opportunities shall be made by the Secretary with funds from the Land and Water Conservation Fund.

(c) In exercising the exchange authority granted by subsection (a) of this section, the Secretary may accept title to any non-Federal land or interests therein and in exchange therefor he may convey to the grantor of such land or interests any national resource lands or interests therein which, under the terms and conditions of this Act, he finds proper for transfer out of Federal ownership and which are located in the same State as the non-Federal land to be acquired. The values of the lands so exchanged either shall be equal, or if they are not equal, the value shall be equalized by the payment of money to the grantor or to the Secretary as the circumstances require. When a land use plan has been prepared, exchanges under this Act shall be in accordance with such plans.

(d) Lands acquired by exchange under this section within the boundaries of the National Forest System may be transferred to the Secretary of Agriculture for administration as a part of, and in accordance with laws, rules and regulations applicable to the National Forest System.

SEC. 11. Enforcement Authority. (a) Violations of regulations which may be adopted for the purpose of protecting the national resource lands, other public property, and the public health, safety and welfare and identified by the Secretary as being subject to the sanctions provided for by this section shall be deemed to be a misdemeanor and shall be punishable by a fine of not more than $10,000 or imprisonment for not more than one year, or both. Any person charged with the violation of such regulations may be tried and sentenced by any United States commissioner or magistrate designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions as provided for in 18 U.S.C. 3401.

(b) At the request of the Secretary, the Attorney General may institute a civil action in a district court of the United States or the highest court in a U.S. territory for an injunction or other appropriate order to prevent any person from utilizing the national resource lands in violation of regulations issued after this Act.

(c) The Secretary may designate and authorize employees as special officers who may make arrests or serve citations for acts committed on the public lands which are in violations of regulations identified pursuant to subsection 11(a).

(d) Upon the sworn information by a competent person, any United States Commissioner, magistrate, or court of competent jurisdiction may issue process for the arrest of any person charged with the violation of law or the designated regulations. Nothing herein shall be construed as preventing the arrest by any officer of the United States, without process, of any person taken in the act of violating the law or the designated regulations.

SEC. 12. State's rights not curtailed. (a) Nothing in this Act shall be construed as a limitation upon any State criminal statute, nor on the police power of the respective States.

(b) Nothing in this section shall be construed to derogate the authority of a local police officer in the performance of his duties.

SEC. 13. Federal rights not curtailed. Nothing in this section shall be construed as limiting or restricting the power and authority of the United States, or as affecting in any way any law governing appropriation or use of, or Federal right to, water on national resource lands.

SEC. 14. All actions by the Secretary under this Act shall be subject to valid existing rights. The Secretary shall not impair or diminish any valid existing rights except under due process and upon payment of just compensation.

SEC. 15. Public Hearings. (a) In exercising his authorities under this Act, the Secretary, by regulation, shall establish procedures, including public hearings where appropriate, to give the Federal, State, and local governments and the public adequate notice and an opportunity to comment upon the formulation of standards and criteria in the preparation and execution of plans and programs and in the management of the national resource lands.

(b) Any proposed significant change in land use plans and regulations pertaining to areas of critical environmental concern shall be the subject of a public hearing.

SEC. 16. In providing for public participation in planning and programming for the national resource lands, the Secretary may establish and consult such advisory boards and committees as he deems necessary to secure full information and advice on the execution of his responsibilities.

SEC. 17. The Secretary is authorized to promulgate such rules and regulations as he deems necessary to carry out the purposes of this Act. The promulgation of such rules and regulations shall be governed by the Administrative Procedures Act (5 U.S.C. 553).

SEC. 18. There is hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this Act.

SEC. 19. Repeal of Prior Laws. (a) Subject to valid rights existing at the date of approval of this Act, the following statutes or parts of statutes as amended are repealed:

(1) HOMESTEAD LAWS

Act of—	Sections	Statute	43 U.S.C.
Revised Statutes: 2288–2298, 2300–2302, 2304, 2311			161–164, 169, 171, 173–175, 183, 184, 191, 201, 211, 239, 254, 255, 271, 272, 274, 277, 278.
Mar. 3, 1875	15	18:420, ch. 131	189.
June 3, 1878		20:91	253.
Mar. 3, 1879		20:472, ch. 191	204.
Mar. 3, 1879		20:472, ch. 192	251.
July 1, 1879		21:46	205.
July 1, 1879	1	21:48	235.
May 14, 1880		21:140	166, 185, 202, 223.
June 8, 1880		21:166	172.
June 16, 1880		21:287	263.
July 4, 1884 (last paragraph of sec. 1 only)		23:96	190.
May 6, 1886		24:22	206.
Mar. 2, 1889	1, 3, 4, 6, 7	28:854	214, 234, 252, 681, 700.
Aug. 30, 1890		26:391	212.

The following words of section 1 only: "No person who shall after the passage of this act, enter upon any of the public lands with a view to occupation, entry or settlement under any of the land laws shall be permitted to acquire title to more than three hundred and twenty acres in the aggregate, under all of said laws, but this limitation shall

not operate to curtail the right of any person who has heretofore made entry or settlement on the public lands, or whose occupation, entry or settlement is validated by this Act."

Act of—	Sections	Statute	43 U.S.C.
Sept. 30, 1890		26:684	261.
Mar. 3, 1893		27:593	275, 1076.

The following words only: "*And provided further*, That where soldier's additional homestead entries have been made or initiated upon certificate of the Commissioner of the General Land Office of the right to make such entry, and there is no adverse claimant, and such certificate is found erroneous or invalid for any cause, the purchaser thereunder, on making proof of such purchase, may perfect his title by payment of the Government price for the land; but no person shall be permitted to acquire more than one hundred and sixty acres of public land through the location of any such certificate."

* * * * * * *

Provided, That the President is hereby authorized by proclamation to withhold from sale and grant for public use to the municipal corporation in which the same is situated all or any portion of any abandoned military reservation not exceeding twenty acres in one place."

Act of—	Section	Statute	43 U.S.C.
Aug. 18, 1894 (last paragraph of section headed "Surveying the Public Lands" only).		28:397	276.
Mar. 2, 1895		28:744	176.
June 16, 1898		30:473, ch. 458	240.
May 17, 1900	1	31:179	179.
June 5, 1900	2, 3	31:269	188, 217.
Jan. 26, 1901		31:740	180.
May 22, 1902	2	32:203, ch. 821	187b.
June 13, 1902		32:384, ch. 1080	203.
Apr. 28, 1904	2, 3	33:527, ch. 1776	213.
Apr. 28, 1904		33:547	224.
Feb. 19, 1909		35:639	218.
June 17, 1910		36:531, ch. 298	219.
Mar. 4, 1913 (last paragraph of section 1 headed "Public Land Service" only).		37:925	256.
Apr. 6, 1914		38:312	167.
Aug. 22, 1914		38:704, ch. 270	231.
Sept. 5, 1914		38:712	182.
Oct. 17, 1914		38:740	168.
Oct. 22, 1914		38:766, ch. 335	170.
Mar. 4, 1915	1	38:1162	220.
July 3, 1916		39:341, ch. 214	232.
Aug. 21, 1916		39:518, ch. 361	207, 1075.
Dec. 29, 1916 (secs. 1–9, 11)		39:862	291–299, 301.
Feb. 20, 1917		39:925	215.
Dec. 20, 1917		40:430, ch. 6	236.
Feb. 25, 1919		40:1161, ch. 37	272a.
July 24, 1919 (next to last paragraph only)		41:271	237.
Sept. 29, 1919		41:288, ch. 64	233.
Feb. 14, 1920		41:434	186.
Mar. 1, 1921		41:1193	167.
Mar. 1, 1921		41:1202, ch. 102	238, 331.
Mar. 4, 1921	1	41:1433, ch. 162	216.
Apr. 6, 1922		42:491, ch. 122	273.
Mar. 4, 1923		42:1445, ch. 245	222, 302.
June 3, 1924		43:357, ch. 240	208.
Feb. 25, 1925		43:981, ch. 326	187.
June 8, 1926		44:709, ch. 501	177.
Apr. 7, 1930		46:144, ch. 108	243.
Feb. 23, 1932		47:53, ch. 52	178.
Mar. 2, 1932		47:59	237a.
May 13, 1932		47:153, ch. 178	256a.
Mar. 1, 1933		47:1418, ch. 160	190a.

The following words of section 1 only: "*Provided*, That no further allotments of lands to Indians on the public domain shall be made in San Juan County, Utah, nor shall further Indian homestead be made in said county under the Act of July 4, 1884 (23 Stat. 96: U.S.C., title 43, sec. 190)."

Act of—	Section	Statute	43 U.S.C.
Mar. 3, 1933		47:1424	243a.
May 21, 1934		48:787, ch. 320	237b.
June 21, 1934		48:1185, ch. 690	187a.
May 22, 1935		49:286	237c.
Aug. 19, 1935		49:659, ch. 560	237d.
Aug. 27, 1935		49:909, ch. 770	256b.
Apr. 20, 1936		49:1235, ch. 239	237e.
Aug. 28, 1937		50:575	1181c.
Sept. 27, 1944		58:747, ch. 421	279–284.
June 22, 1948		62:576	209, 210.
July 30, 1956		70:715, 716, ch. 778	237f, g, h; 336a–d.
(2) EXCHANGE OF LAND			
June 28, 1934	8	48:1272	315g.
Aug. 24, 1937		50:748	315p.
(3) DESERT LAND ENTRIES			
Mar. 28, 1908		35:52, ch. 112	324, 326, 333.
Apr. 30, 1912		37:106, ch. 101	334.
Mar. 4, 1915	5	38:1161, ch. 147	335, 337, 338.
Feb. 27, 1917		39:946, ch. 134	330.
Aug. 7, 1917		40:250	332.
Feb. 25, 1925		43:982, ch. 329	336.
Mar. 4 1929		45:1548, ch. 687	339.
(4) SALE AND DISPOSAL LAWS			
Revised Statutes: 2354, 2355, 2357, 2361–2363, 2365, 2366, 2368–2372, 2374–2376.			673, 674, 676, 678, 688–699.
June 15, 1880	34	21:238	679, 680.
Mar. 3, 1891	9, 16	26:1099, 1101	671, 728.
May 18, 1898		30:418, ch. 344	675.
Mar. 1, 1907		34:1052, ch. 2286	682.
June 1, 1938		52:609, ch. 317	682a–e.
(5) TOWN SITE RESERVATION AND SALE			
Revised Statutes: 2380–2384, 2386–2389, 2391–2394			711–715, 717–721, 722–724.
Mar. 3, 1877	1, 3, 4	19:392, ch. 113	725–727.
Feb. 9, 1903		32:820, ch. 531	731.
July 9, 1914		38:454	730.
(6) DRAINAGE UNDER STATE LAWS			
May 20, 1908	1–7	35:169, ch. 181	1021–1027.
Mar. 3, 1919		40:1321, ch. 113	1028.
Jan. 17, 1920		41:392, ch. 47	1041–1048.
May 1, 1958		72:99	1029–1034.
(7) ABANDONED MILITARY RESERVATIONS			
July 5, 1884	5	23:104, ch. 214	1074.
Aug. 23, 1894		23:491, ch. 314	1077, 1078, 1081.
Feb. 15, 1895		28:664	1080.
Feb. 11, 1903		32:822, ch. 543	1079.

(8) PUBLIC LANDS IN OKLAHOMA

Act of—	Section	Statute	43 U.S.C.
May 2, 1890 (last paragraph of sec. 18 and secs. 20–24, 27 only).		26:89–93	1091–1097.
May 14, 1890		26:109	1111–1117.
Mar. 3, 1891	16, 37	26:1026	1098, 1099.
Sept. 1, 1893		28:11	1118.
May 11, 1896		29:116	1119.
Jan. 18, 1897	1, 2, 3, 7	29:490	1131–1134.
Aug. 7, 1946		60:872, ch. 772	1100–1101.
Aug. 3, 1955		69:445, ch. 498	1102, 1102a–g.

(9) PATENTS FOR PRIVATE CLAIMS

Act of—	Section	Statute	43 U.S.C.
Revised Statutes, 2447–2448			1151, 1152.
June 6, 1874	1, 2	18:62, ch. 223	1153, 1154.
Jan. 28, 1879		20:274	1155.
May 30, 1894		28:84, ch. 87	1156.

(10) SALES OF ISOLATED TRACTS

Revised Statute 2455, as amended			1171.
Feb. 4, 1919		40:1055	1172.
May 10, 1920		41:595, ch. 178	1173.
Aug. 11, 1921		42:159, ch. 62	1175.
May 19, 1926		44:566, ch. 337	1176.
Apr. 24, 1928		45:457, ch. 428	1171a.
May 23, 1930		46:377, ch. 313	1171b.
Feb. 14, 1931		46:1105, ch. 170	1177.

(11) EVIDENCE OF TITLE

Revised Statutes, 2471–2473			1191–1193.

(12) LANDS IN ALASKA

Mar. 3, 1891	11	26:1099	732–738.
Mar. 12, 1914 (4th paragraph of sec. 1 only)		38:305	
May 25, 1926		44:629	732–738.
Feb. 26, 1948		62:35, ch. 72	
Aug. 30, 1949		63:679, ch. 521	
July 24, 1947		61:414, ch. 305	
May 14, 1898		30:413	270–270–17.

(13) PITTMAN, ACT GRANTS

Sept. 22, 1922		42:1012	356.

(14) INDIAN ALLOTMENTS			25 U.S.C.
Feb. 8, 1887		24:389	334.
Feb. 28, 1891		26:795	336.

(b) Section 7 of the Act of June 28, 1934, as amended (43 U.S.C. 315f) is revised to read as follows:

"The Secretary of the Interior is authorized, in his discretion, to examine and classify any lands withdrawn or reserved by Executive order of November 26, 1934 (numbered 6910), and amendments thereto, and Executive order of February 5, 1935 (numbered 6964), or within a grazing district, which are more valuable or suitable for the production of agricultural crops than for the production of native grasses and forage plants, or more valuable or suitable for any other

use than for the use provided for under this Act, or proper for acquisition in satisfaction of any outstanding lien, exchange or land grant, and to open such lands to disposal in accordance with such classification under applicable public-land laws. Such lands shall not be subject to disposition until after the same have been classified and opened to disposal."

(c) The Act of March 3, 1877, as amended (19 Stat. 377, 43 U.S.C. 321, 322, 323, 325, 327–329) is further amended to read as follows:

"All surplus water over and above water actually appropriated and used by persons on entries made under this Act, together with the water of all lakes, rivers and other sources of water supply upon the public lands and not navigable, shall remain and be held free for the appropriation and use of the public for irrigation, mining, and manufacturing purposes subject to existing rights."

(d) This Act shall not be construed as repealing any law not listed in this section.

U.S. Department of the Interior,
Office of the Secretary,
Washington, D.C., July 22, 1971.

Honorable Wayne N. Aspinall,
Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, D.C.

Dear Mr. Chairman: This responds to your request for the views of this Department on H.R. 7211, a bill "To establish public land use policy, to establish guidelines for its administration, and for other purposes".

We recommend that the bill not be enacted for the reasons set out in this report, and that the Administration's proposed bill "To provide for the management, protection and development of the national resource lands" be enacted instead.

SCOPE

A principal difference between the Administration bill, which is titled "The National Resource Land Management Act of 1971", and H.R. 7211 is that the former applies only to lands managed by the Bureau of Land Management while H.R. 7211 would apply to all federally owned lands.

Where public lands are set aside by law for a specific purpose such as lands held in trust for Indians, or lands in the National Parks, National Wildlife Refuge or National Wilderness Preservation Systems, multiple use management would generally be inconsistent with their statutory purpose. This would also be true of most Federal property other than that managed by the Bureau of Land Management, such as land underlying Federal office buildings, military bases, and the like.

POLICY

H.R. 7211 contains in separate sections "Findings and Purposes" (section 2), "Declaration of Policy" (section 3), and "Goals and Objectives" (section 5). The Administration's proposal contains much of the content of these sections in a single "Declaration of Policy", and in separate "planning", "management", "sale" and "acquisition" sections. The Administration's proposed declaration of policy contains

a presumption that the national interest will best be served by retaining the lands administered by BLM in Federal ownership, and they be managed "under principles of multiple use and sustained yield, in a manner which will, using all practicable means and measures protect the environmental quality of the lands to assure their continued values for present and future generations".

We feel that the Administration's proposed structure provides greater clarity. In addition, we take exception to certain of the findings and objectives of H.R. 7211. Some of the findings, for example, are phrased in negative terms suggesting an attempt to assign blame for inadequacies in existing public land policy. We feel that a Congressional pronouncement should be phrased in positive terms to provide guidance as to how this precious "national resource" should be administered to achieve the maximum benefit to the American public and not in terms of a catalog of past failures.

Paragraph 12 proposes "reversing the statutory policy of large-scale disposal of public lands." As stated in the transmittal letter of the proposed National Resource Land Management Act of 1971, the public attitude towards large-scale disposal of public lands has already undergone a reversal which has been reflected in the actions of both Congress and the Executive Branch of government.

The establishment by Congress of the National Park System, the National Forest System, the National Wildlife Refuge System, the National Wilderness Preservation System and the Wild and Scenic Rivers System reflects this reversal. The Taylor Grazing Act passed in 1934 authorized the withdrawal of lands administered by the Bureau of Land Management for grazing districts. A 1936 amendment to the Taylor Grazing Act incorporated by reference executive orders by which President Roosevelt withdrew all public lands outside of Alaska from disposal for other than mineral purposes.

Paragraphs 20 and 21 point out the importance of coordinated planning for public and non-public lands. The Administration's proposed "National Land Use Policy Act of 1971," pending before your committee as H.R. 4332, is aimed at this objective. It would encourage each state to establish a land use regulatory program coordinated with Federal programs and with land use programs of other states. Once a state program is approved by the Secretary of the Interior, the Administration's bill would require that all Federal actions, including those on public lands, be consistent with the state program.

We are unclear what is meant by "equitable treatment" in subsection 5(j) and its relation to the exercise of state and local police power and legislative jurisdiction. We assume that this subsection is not intended to change existing law with respect to the exercise of state police power on Federal lands. The Administration's proposal covers this more explicitly in section 12.

Subsection 5(k) establishes a principle that the United States shall receive fair market value for the use of any resources on the public lands whenever the use if for private profit unless Congress finds that there is an overriding national need for a specific resource. "Private profit" could connote a commercial use only. We feel that the principle of fair payment should apply to private non-commercial uses as, for example, vacation homes.

We also feel that authorizing use for less than fair market value where Congress finds an "overriding national need for a specific resource" is too restrictive. Congress has recognized that private equities sometimes warrant special consideration in permitting use at less than fair market value. The color of title Act and the Mining Claims Occupancy Act are two examples. Public equities are also recognized as in the Recreation and Public Purposes Act.

The Administration's proposal requires payment of fair market value in all sales except those authorized specifically by other law.

Subsection 5(m) guarantees that equity be assured to the general public in three areas, the second being "that the United States solely because it is the sovereign, never takes advantage of its position as landowner". The meaning of this provision is not entirely clear. It appears to incorporate recommendation number 98 from the report of the Public Land Law Review Commission, which was illustrated by a case in which the Secretary of the Interior used his right to permit a power line easement across the Chesapeake and Ohio Canal National Monument to prevent the placement of a high voltage powerline near the Antietam Battlefield. The PLLRC report states "We take no position on the merits of (the) objectives. . . . However we are concerned that they were undertaken without clear guidelines or direction from Congress". Where public values are at stake, we believe that this Department should avail itself of all its rights as landowners to protect and preserve them. The Antietam Battlefield case is a good example.

ADMINISTRATIVE PROCEDURES

Section 6 of H.R. 7211 sets forth detailed procedures governing the administration of the public lands. To a large extent, the provisions of section 6 are already either in the law or are established administrative practice, as for example, the publication of a description of each agency's central and field organization. For the most part, however, the section creates an administrative procedure paralleling and in many cases substantially identical to the Administrative Procedure Act, as amended, Act of June 11, 1946 (60 Stat. 237; 5 U.S.C. 551, *et seq.* (1970 edition)). The definitions of agency, person and party, rule and rulemaking, order and adjudication, license and licensing, sanction and relief, and agency proceeding and action appear to be taken virtually verbatim from the Administrative Procedure Act.

We feel that the Administrative procedures set forth in the Administrative Procedure Act are preferable to the creation of a new and separate set of procedures. The Administrative Procedure Act has the benefit of 25 years of history, and case law construing its provisions. It has proven a reasonably efficient and workable law balancing private rights against public rights and presenting an expeditious method for resolving conflicts when they arise.

ADVISORY, COORDINATING AND PLANNING COMMISSIONS

Sections 7 through 13 of H.R. 7211 provide for a number of advisory, coordinating and planning commissions at various levels to assist public land managing agencies. This Department has strongly supported the use of advisory and coordinating committees. Virtually all of the land and management bureaus within this Department,

which includes the Bureau of Land Management, the National Park Service, the Bureau of Sport Fisheries and Wildlife, and the Bureau of Reclamation, employ advisory committees. At the field level the Bureau of Land Management regularly consults with an advisory board in each of its 63 districts.

We do not support, however, the provisions of sections 7 through 13 of H.R. 7211 which make it mandatory that advisory commissions be created at all decision-making levels and encumber them with rigid and costly procedures. We feel, therefore, that the establishment and organization of advisory commissions should be at the complete discretion of the agency head, and that the provisions of sections 7 through 13 of H.R. 7211 calling for an extensive network of mandatory committees and commissions are largely self-defeating.

The "National Resource Land Management Act of 1971" proposed by this Department authorizes the Secretary of the Interior to "establish and consult such advisory boards and committees as he determines necessary to secure full information and advice on the execution of his responsibilities". We feel that this language is preferable to the provisions of H.R. 7211 regarding advisory boards.

Present coordination problems arise largely out of the fact that jurisdiction for managing Federal lands is dispersed among a number of existing Federal agencies. President Nixon's proposal to reorganize the executive branch by creating a Department of Natural Resources into which most land management responsibilities would be merged is, in our view, a more direct solution to this problem.

In addition to his proposed reorganization, President Nixon, on May 21, 1969, has established a ten-region organization to further streamline Federal field operations. This Department has established a program to conform the regional boundaries of its bureaus with the President's ten-region organization.

Section 10(c) authorizes the Secretary of the Interior to make grants to any state "that has or hereafter establishes a land planning commission and joins or indicates its willingness to join a Regional Interstate Land Use Coordinating Commission". We assume the grants are to assist the States in land use planning. The Administration's proposed National Land Use Policy Act, mentioned above, is, we feel, better suited to achieve this objective. It contains a number of specific criteria which must be met by the states to remain eligible for Federal grants and it contains specific objectives towards which state efforts must be directed with a heavy emphasis on state regulation in areas of critical environmental concern. The Administration's proposed National Land Use Policy Act of 1971 would encourage the states, as a first step towards placing land use decisions on a rational, coordinated and environmentally sound basis, to reform the institutions at the state and local level through which land use decisions are made. The concept of planning is so broad that we feel it is essential that any Federal grants to states for planning purposes contain specific objectives and criteria against which to measure performance.

Section 11 establishes a "Joint Federal-State National Resource and Regional Planning Commission" to coordinate the use of public lands in Alaska. This Commission is directed to "engage in such activities . . . as it deems appropriate . . . for the development of a land management plan for the State of Alaska."

The Administration's proposed National Land Use Policy Act would establish land use planning programs in each of 50 states which by virtue of their conformance to common statutory criteria would constitute a national program. A separate statutory scheme for any single state is inconsistent with the objectives of the Act. Furthermore, at the President's direction, this Department is working with the State of Alaska to develop a comprehensive land use plan for the State. Finally, the National Resource Land Management Act of 1971 would require the Secretary of the Interior to develop land use plans for all public lands.

Section 14 of H.R. 7211 declares that it is essential that each public land management agency pursue a systematic program of land use planning. Subsections (a), (b), (c), and (f) set forth extensive procedures to be followed in developing these plans.

This Department endorses the prefatory statement in section 14 that systematic land use planning is essential for sound management of the public land. The Department's proposed "National Resource Land Management Act of 1971" requires the Secretary of the Interior to "develop, maintain, and when appropriate revise land use plans for the national resource lands". It provides further that when such plans have been prepared, the Secretary shall manage the lands in accordance with them. It sets forth seven principles to govern the development and maintenance of land use plans. These are broad goal-oriented principles requiring, among others, consideration of present and potential uses, the relative scarcity of the values involved, priority for critical environmental areas, the availability of alternate means and sites, and the long-term public benefits. It requires coordination with state and local government programs and with Federal programs and policies.

Planning for land use must be a continuing process including long range objectives as well as accommodating present and short-term uses. An integral part of the planning concept is that the plan must be periodically reviewed and updated as conditions change or as long-term objectives are realized. We oppose, therefore, the provision in subsection 14(d) which in effect would scrap all existing plans, classifications, etc., and require each agency to start from scratch in developing land use plans.

Proponents of the dominant use concept argue that "not every acre of every area can be fully utilized to the same degree for each and every use". Opponents imagine it to be a vehicle for domination of the public lands by the commercial interests which would exploit them. Whether or not the controversy between multiple use and dominant use is more real than imagined, we feel that the multiple use concept as it is currently practiced by the Bureau of Land Management is sufficiently flexible to accommodate a single use if that use alone "will best meet the present and future needs of the American people". We feel that decisions on the extent to which competing uses can be accommodated on a single piece of land is the essence of land management and that such decisions must depend on the experience and wisdom of the land manager exercised with the benefit of Congressional guidelines and public participation and not on semantics or mechanical formulae.

CRITERIA FOR DISPOSAL

Section 14(d) prohibits disposal if "important public values that should be enjoyed by the general public would be lost thereby". Section 14(e) contains additional disposal criteria including the facts that the land involved is isolated and difficult to manage, that it is no longer needed for the purpose for which it was acquired or any other Federal use, and that disposal will serve the maximum benefit for the general public. Section 14(e)(3) requires disposal in accordance with state outdoor recreation plans and might be construed as giving the States authority to direct the disposal of public lands. We would object strongly to giving the states authority to direct disposal of Federal land.

The Administration's proposal establishes two disposal criteria; first, where it would lead to significant improvement in land management; and second, where important public objectives cannot be achieved prudently and feasibly except on Federal land. We feel that these two criteria best achieve a proper balance between the presumption in favor of retention and the need in specific instances to sell land to meet specific objectives.

WITHDRAWAL AUTHORITY

Section 15 of H.R. 7211 authorized the Secretary of the Interior to withdraw up to 5,000 acres of public land and prohibit the public from certain specified uses of the land. Such withdrawals are generally limited to a period of ten years and must be preceded by a rule-making procedure with public hearings if requested by the state. The Secretary must consider in issuing a withdrawal order, a number of factors including the proposed use, an inventory and evaluation of the resources, the effect on existing users, views of various interested groups.

Subsection 15(e) reserves to Congress the exclusive authority to withdraw lands (1) which exceed 5,000 acres, (2) for period of more than 10 years, or (3) for incorporation into specially-protected categories such as the National Park System.

Under the homestead laws and other laws originally designed to encourage settlement of the western frontier, executive withdrawal has been the only way to preserve the remaining public domain for the use and enjoyment of present and future generations of Americans.

As Congress has gradually replaced non-discretionary disposal laws with laws such as the Administration's proposed "National Resource Land Management Act of 1971" which would give the land manager discretion to balance competing uses in order to best meet the present and future needs of all Americans, the use of executive withdrawals has diminished.

Nevertheless, the executive withdrawal is still an important management tool and will continue to be as long as there are the non-discretionary forms of public land appropriation. The Executive Branch must be able to react rapidly to protect public values. Therefore, we do not support the curtailment of this important safeguard for the national resource lands.

In addition to the foregoing objection, we have a serious reservation about subsection (f) which would allow a single Member of Congress

to suspend the operation of the public land laws on any public land in the country by introducing a bill proposing their withdrawal for any purpose. The suspension would continue for the duration of the Congress. Under this provision a Congressman could, for example, thwart or delay state land selections, by the simple introduction of a bill in Congress. This would make the administration of the public lands virtually impossible.

CONCLUSION

For the reasons set forth above we recommend that the Administration's proposal be enacted instead of H.R. 7211.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program, and that enactment of the Administration's bill "To provide for the management, protection and development of the national resource lands" would be in accord with the program of the President.

Sincerely yours,

HARRISON LOESCH,
Assistant Secretary of the Interior.

OFFICE OF THE SECRETARY OF TRANSPORTATION,
Washington, D.C., July 22, 1971.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: You have requested the comments of this Department on H.R. 7211, a bill

"To establish public land use policy, to establish guidelines for its administration, and for other purposes."

The Department of Transportation supports in principle the aims of H.R. 7211. It represents one element in the current overall effort to define and articulate workable national land use policy. The Department is not a leading landowning agency, although it does have an interest in and impact on the use of public lands. The Federal-Aid Highway Act of 1970, for example, provides for the use of highway trust funds for public land highways, forest highways, forest and public development roads and trails, parkways and park roads, and Indian reservation roads and bridges. In addition, the Department owns some lands including the Federal Aviation Administration facilities, the Alaska Railway, and transportation test facilities.

The Department defers on this legislation to the views of the Departments of Interior and Agriculture, which currently have primary responsibility for the management of public lands. However, we would like to call attention to two features of the bill which we feel could present problems. First, the system of departmental, agency, interagency, regional, State and local advisory and coordinating committees appears to be needlessly elaborate and complex.

Second, section 16, "Judicial Review," appears to grant standing to seek judicial review of any decision or order to any party who submits views to the agency involved in the course of the rulemaking or any other procedure required by the Act. The scope of this provision seems

unduly wide, and could result in a great deal of litigation in cases where no one suffered legal wrong or was adversely affected or aggrieved.

The Office of Management and Budget has advised that from the standpoint of the Administration's program, there is no objection to our submission of this report for the consideration of the Committee.

Sincerely,

JOHN W. BARNUM
(for General Counsel).

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., July 22, 1971.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Your letter of April 8, 1971, requested the views of the General Services Administration on H.R. 7211, 92nd Congress, a bill "To establish public land use policy, to establish guidelines for its administration, and for other purposes."

In this bill, the Congress would affirm its policy that public lands shall be retained, managed, or disposed of in a manner to provide the maximum benefit for the general public; and declare as national policy that in the management, use, and disposition of public lands, land management agencies consider the views of all interested elements, and that all plans provide for maintenance or enhancement of the quality of public lands and their environs. The stated goals of the bill include retention in Federal ownership of the bulk of the public lands; their transfer to non-Federal ownership only for purposes designated by statute; their management in a manner not endangering the environment; coordination with regional, State, and local land management plans; and public participation in rulemaking and in all procedures leading to the classification of any area of public land, with the right of judicial review.

The bill would require detailed regulations and rulemaking procedures, public hearings, the establishment of advisory boards and committees, regional Federal Public Land Use Coordinating Committees and regional Interstate Land Use Coordinating Commissions, and consultation with all of these by the land management agencies.

The apparent objective of the bill is to protect and promote the interests of the Government and the public and to provide uniformity in the public acquisition and use of Government-owned lands for mining and mineral leasing claims, animal grazing leases, timber harvesting, recreational permits and leases, homesteading, and similar public purposes.

Section 4(a) of the bill defines "public lands" as "any land owned by the United States within any of the States, of the United States without regard to how the United States acquired ownership of the land and without regard to the agency having responsibility for management thereof."

Under this broad definition, the bill would appear to apply to sites acquired by GSA for public buildings authorized under the Public Buildings Act of 1959 and related statutes. Except to the extent that section 210(a)(13) of the Federal Property and Administrative Services Act of 1949 authorizes the outleasing of undeveloped public buildings sites to former owners and their tenants, and to the extent

that exchanges of public buildings sites are authorized under the Public Buildings Act of 1959, these properties are not available for acquisition or use by the public as long as they are in the active inventory of GSA's Public Buildings Service. Thus it would appear that enactment of the bill in its present form would impose an onerous and totally unnecessary burden on the acquisition and management of public building sites.

By the enactment of the Federal Property Act and related legislation, Congress has provided an efficient system for the utilization of excess and the disposal of surplus real property. The procedures authorized by Congress and implemented by the General Services Administration since the enactment of the Act in 1949 have worked effectively and efficiently. However, enactment of H.R. 7211 would superimpose upon present surplus property disposal procedures a system of agency and national advisory boards and committees, regional land use coordinating committees, and interstate commissions, which we believe would so complicate the utilization and disposal programs as to make them unworkable. The rules and procedures under which all this would operate are to be prescribed pursuant to the Act and are unpredictable at this time.

In the performance of its property disposal responsibilities, GSA is already required to consult and coordinate with State and local public bodies by existing law and regulations, including the Intergovernmental Cooperation Act of 1968, the National Environmental Policy Act of 1969, and Office of Management and Budget Circulars Nos. A–85 (Revised) dated January 20, 1971, and A–95 (Revised) dated February 9, 1971. It is our opinion that the imposition of the long and complicated procedures of this bill would destroy the effective and efficient programs now operating for the utilization of excess and the disposal of surplus real property.

Likewise, we do not believe that the public interest would be served from the standpoint of State and local governments who are now adequately protected by laws which require GSA to consult and work with them in the disposal of surplus property. They are now receiving surplus property which they need and which Congress has provided they may have for certain public uses, without the long delays which most certainly would occur if H.R. 7211 were enacted in its present form.

The Office of Management and Budget has advised that, from the standpoint of the Administration's program, there is no objection to the submission of this report to your Committee.

Sincerely,

OLIVER THURMAN,
Deputy Assistant Administrator.

U.S. ATOMIC ENERGY COMMISSION,
Washington, D.C., July 26, 1971.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, D.C.

DEAR MR. ASPINALL: Thank you for the opportunity to express our views on H.R. 7211, a bill "to establish public land use policy, to establish guidelines for its administration, and for other purposes."

The Atomic Energy Commission defers to Interior with respect to the necessity for and desirability of the enactment of H.R. 7211. However, we have the following comments.

In the first place, it seems to us that the "findings" in section 2(a) lack a positive tone. It is difficult for AEC to subscribe, for example, to statements such as that reflected in section 2(a)(9) that "the absence of statutory guidelines has resulted in no provision being made to assure that the quality of life would not be endangered by reason of activities on federally owned lands or that public lands would be used so as to at least maintain if not enhance the environment of such lands and others in their vicinity." The National Environmental Policy Act of 1969; the Multiple Use-Sustained Yield Act of 1960; the Clean Air Act, as amended; and the Federal Water Pollution Control Act, as amended, are just a few of the existing mechanisms that appear to help promote environmental quality on the public lands.

Secondly, the AEC supports provisions for meaningful public participation in the public land management decision-making process. However, the administrative procedures prescribed in section 6 and the formal establishment in sections 7 through 9, respectively, of advisory boards, Federal Public Land Use Coordinating Committees, seem to us to be unduly cumbersome. These provisions, when taken together, could well result in unnecessarily delaying many public land decisions.

Finally, it appears to us that section 15, which sets forth the policies and procedures for public land withdrawals, is not appropriate. Virtually all withdrawals of public domain land for AEC purposes are for indefinite terms and, pursuant to AEC request, are handled and consummated by the Department of the Interior under authority granted to it by Executive Order 10355. In our judgment, this process has worked well. While we can see some merit in greater Congressional oversight and public participation in the withdrawal process, Federal agencies currently must justify the continuation of withdrawals under Executive Order 11508, and any statutory provision to this effect would therefore seem unnecessary. Moreover, we are not convinced that withdrawals which exceed 5,000 acres or are for periods in excess of ten years should necessarily be reserved to Congress, or that all administrative withdrawals should be required to go through the elaborate procedures spelled out in section 15.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Cordially,

GLENN T. SEABORG,
Chairman.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., July 26, 1971.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: As you asked, here is the report of the Department of Agriculture on H.R. 7211, a bill "To establish public

land use policy, to establish guidelines for its administration, and for other purposes."

This Department recommends that H.R. 7211 not be enacted.

H.R. 7211 would establish a policy that the public lands shall be retained and managed or disposed of based upon the maximum benefit for the general public. It would create a system of land use planning for public lands, provide for methods of coordination of such planning with State and local governments. It would provide for grants to States for land use planning, the establishment of interstate regional coordination groups and special coordinated natural resource planning for the State of Alaska.

The bill would set forth goals and objectives to be achieved in planning, creates a series of advisory boards and commissions, and establishes administrative, rulemaking, reporting and public involvement procedures. H.R. 7211 would provide for a system of withdrawal and reservation of public lands and for judicial review of land management agency actions.

The detailed reasons for our recommendation are set forth in the attached statement. Some of the major areas of concern are expressed here.

Findings presented in H.R. 7211 cover several points which require action. However, provisions of the bill are extremely complex and wide ranging. Many of the desirable provisions are adequately met by existing law and administrative practices. Others would be better met by pending legislation such as the Administration proposal on land use policy embodied in H.R. 4332 and implementation or modification of administrative practices. Many of the provisions of H.R. 7211 are negative in character and tend to present a distorted view of current management activities on public lands.

Several provisions of the bill provide for coordination of planning between Federal, State, and local governments. We agree that State and local governments (as well as private interests) must be involved in Federal land planning program. There should be reciprocal relationships whereby Federal land agencies are invited to participate in State and local planning that affects public lands.

National Forest System lands have a long established history as important national areas. The national significance and character of these lands has greatly increased in recent years. The National Forest System has had the continuous strong support of the public and Congress. We believe language in the bill can be construed to weaken the concept of permanence of the National Forest System. Suggestions for the fragmenting of management among different levels of government are not consistent with the multiple use principle of sound ecological and environmental management. Reservations made from the public domain to create or enlarge the National Forest System should not be included in those reservations subject to periodic review.

We believe it is fundamental that the Federal Government not delegate to State or local governments decision-making authority over Federal areas. The interests of the public represented by State and local governments are not co-extensive nor necessarily identical with those of the Federal Government.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

J. PHIL CAMPBELL,
Under Secretary.

Enclosure.

STATEMENT OF POSITION OF DEPARTMENT OF AGRICULTURE ON H.R. 7211

Section 2 states the findings and purposes of the bill. The findings touch on several points which require action. However, the balance and tone of the findings give a generally negative impression, when considered together with implementing sections which follow. They indicate that there are serious deficiencies in planning and management; that agency policies are detrimental and unfair to the public. We do not believe such findings are accurate. For example, section 2(a)(9) indicates that the absence of statutory guidelines has resulted in "no provision" being made to assure that the quality of life would not be endangered by reason of activities on federally owned lands or that public lands would be used so as to at least maintain, if not enhance, the environment. The National Environmental Policy Act of 1969, the Multiple Use-Sustained Yield Act of 1960 and numerous other Acts deal directly and effectively with this question. Many of the findings do not appear to be proper for statutory recognition.

We believe that programs of national scope and those programs closely integrated with overall management of Federal areas are more properly, efficiently and economically provided by Federal agencies. National Forest System lands are truly National in significance and scope. All of their various resources are managed by statute under the multiple use-sustained yield concept. The fragmenting of management activities is inconsistent with this system and with sound ecological and environmental principles.

There is a very substantial reason to distinguish between public domain and acquired land owned by the Federal Government. Most public domain lands are open to entry under the 1872 mining laws, whereas acquired land minerals are covered by mineral leasing acts. We do not believe the mining law of 1872 should be applied to acquired lands without substantial change in that law.

Because of the impact one jurisdiction has upon another, coordination of planning must be truly bilateral and recognize the appropriate interests of each jurisdiction and the publics they represent.

The basic policy statements of section 3 need to be considered in connection with the underlying Congressional policies relating to the National Forest System. The principal authorities governing establishment and management of National Forest System lands contemplate and provide that these lands are to be held on a permanent basis, to provide a continuous flow of goods and services to the people of the United States. This status of permanence goes to the heart of their public value. It provides stability that National Forest System administrators need to undertake and plan longterm management programs. It offers assurance to the public that these lands will be forever held as national land system, for the permanent good of all the people, and not for the personal benefit of a few.

We believe the present language of section 3 could be construed to weaken existing statutory guidelines relating to permanece of the National Forest System. It would create a general policy overlay regarding disposal of public lands which could be interpreted to apply to the National Forests. We suggest that any such policy ought to recognize that certain land systems, such as the National Forest System, shall be held on a permanent basis for the entire public.

We also believe that any policy for the planning and management of public lands should clearly state that such planning and management shall be based on scientific and ecologically sound principles.

Section 4 defines terms. The definition of a number of these appears to raise substantial questions in regard to existing law and practice. Among these are: Public lands, withdrawals, multiple use, and sustained yield.

Section 5 sets forth goals and objectives in the utilization of the public lands. These goals and objectives are implemented in subsequent sections. Viewed as stated and applied, we feel these goals and objectives do not, in several respects, serve the maximum benefit for the general public in the management and utilization of the National Forest System lands.

Subsection 5(b) states that "for the foreseeable future" the bulk of public lands should remain in public ownership. We feel this qualifying phrase could undermine the basic statutory principle of permanence which relates to National Forest System lands.

In our view, National Forest System lands have been set aside by several major congressional acts for specific uses. These uses are clearly stated in the Multiple Use and Sustained Yield Act of 1960. We concur that these lands should be managed under multiple use but believe the wording of subsection 5(d) erroneously implies that there has not been congressional action to set aside National Forest System lands as national areas to be managed on a permanent basis.

Subsection 5(f) calls for management of public lands in accord with plans which are coordinated with and, to the extent feasible, in harmony with regional, State, and local management plans developed by non-Federal agencies. Coordination of plans among the various levels of government is vital but Federal plans should not be subservient to other plans. There should be a truly cooperative effort to arrive at coordinated plans which recognize the legitimate interests of all levels of government. The goal should be for coordinated plans to the extent feasible.

We believe any incentives furnished in connection with discovery and development of mineral resources as stated in subsection 5(h) should clearly recognize other values which may be adversely affected by such activities.

Section 5(i) appears to contain a typographical error. We believe the first line was intended to read "Unless there is an overriding national need. . . ." We believe this statement is too broad in scope. Use by individuals and communities should continue to maintain community stability only if found to be in the public interest but should not necessarily include those that have previously been dependent thereon.

Section 5(m) should not create several classes of persons or groups to participate in rulemaking and classification. The general public should be the sole class and users or potential users should not enjoy a special status.

With respect to subsection 5(m)(3), the sovereign does not find itself in the same position as an individual and while equity should prevail, certain longstanding principles of law for the protection of the collective public should remain.

Section 6 sets forth administrative procedures to be followed by agencies administering the public lands. Many of the provisions of section 6 are duplicative of the provisions of the Administrative Procedure Act which we believe are adequate and preferable to the establishment of a new set of procedures. The Administrative Procedure Act has had the benefit of 25 years of application and interpretation. It has proven to be a generally effective and workable law.

We think it important that the quality and nature of public involvement be improved. Many things have been done to implement this process. In accord with the recommendations of the Administrative Conference of the United States the Secretary of Agriculture has adopted, for application to lands under his jurisdiction, the provisions of the Administrative Procedure Act relating to rulemaking. Thus the public will be given an opportunity to review and comment on proposed rules and regulations.

The specific, detailed, and elaborate procedures of section 6 may, in fact, frustrate instead of facilitate public understanding and involvement. They could lead to innumerable procedural challenges and delays. They would excessively standardize administrative procedures and decisions, with a corresponding reduction in flexibility and discretion to meet local and regional needs in the decision-making process. They may also provide technicalities through which the objectives of the law may be evaded or circumvented. We believe they will be largely self-defeating.

Provisions of section 6(a), (b), and (c) are substantially provided for by existing law and practice. We believe section 6(d), which requires consultation in advance of rulemaking, can better be achieved as a matter of policy by the agencies concerned. The very formal procedure proposed could result in long delays and confusion. Adequate public notice should be given but special classes of notification should not be required.

Submission of proposed rulemaking to the Speaker of the House of Representatives and the President of the Senate as provided in section 6(e) would seem an unnecessary requirement. We view the Federal Register as giving adequate notice to all bodies of government. Requirements of the subsection appear to be an unnecessary duplication.

Public hearings should not be a requirement in every case except upon responsible public request or when the agency determines one is necessary. Many rules are of such character that a hearing would not be necessary and adequate public expression is provided by written or informally presented oral comments.

Section 6(g) which requires reissuance of standards and interpretation of statutes and regulations should not apply to existing statutes or regulations published and in effect on the date of passage of the Act. Regulations in effect on the date of enactment should remain in effect until changed by appropriate publication.

Section 6(h) and (i) appears to be inconsistent and largely ineffective. Adequate administrative practices are largely being met under existing administrative practices, the provisions of the National Environmental Policy Act, and other legislation.

Section 7 provides for the establishment of several classes of Advisory Boards. It also provides, in some detail, for makeup, duties, and rules for such Boards. We do not believe the provisions of section 7 are necessary. Advisory Boards have been used extensively and effectively by several agencies of the Department as one means of gaining public participation. Currently the establishment, functions, and reporting are governed by Executive Order No. 11007. We believe the provisions of this Order are adequate.

Because such boards are properly advisory only, there appears to be no reason for a requirement that they be established or that very technical and complicated rulemaking, reporting, membership, and notice procedures be followed. Such requirements serve little public purpose and could so complicate planning and management functions as to make them largely ineffective.

Public participation can often be more effectively gained through general public meetings and consultation rather than through formal advisory boards.

Section 8 provides for establishment of a Federal Public Land Use Coordinating Committee. We believe that such a group could serve a useful purpose but because of its coordinating rather than decision making responsibilities, formal rulemaking and reporting procedures should not be required. As long as the actions of such a group are open for public review there appears to be little value in applying extensive rulemaking procedures. Establishment of such coordinating groups can be effectively and efficiently achieved by Executive Order or other administrative procedures.

Section 9 provides for the establishment of Interstate Land Use Coordinating Commissions to represent geographic areas in coordinating land use planning with Federal Public Land Use Coordinating Committees established in Section 8 of the bill. If such Commissions are formed, we believe their function should not be limited to recommending public land actions deemed by the Commission to be in the public interest to the Federal committees. We believe the Commission and Federal committees should work together to coordinate planning and land use of Federal, State, and private lands. Coordination among the different levels of government in land use planning is adequately met by the Administration's proposal on national land use policy embodied in H.R. 4332 of this Congress.

Section 10(c) provides for certain grants to States to aid State land planning activities. We believe the need for State land use planning goes far beyond that covered by this section and is better met by provisions of the Administration's proposal as embodied in H.R. 4332 of this Congress.

Section 11 provides for a Joint Federal-State Natural Resource and Regional Planning Commission to coordinate use of public lands in Alaska. We agree coordination of land use in Alaska is a desirable goal but we believe it could be accomplished by utilizing the Federal Committee—Interstate Commission approach as stated in sections 8 and 9 of the bill.

Section 14 establishes a system of land use planning. We support statutory direction requiring land use plans with periodic review and public involvement. Areas which have been designated by statute for a specified use such as Wilderness, Primitive, and Wild and Scenic Rivers should continue to be managed in accord with such statutes.

We further agree that lands not so designated but that are to be retained in the Federal ownership should be managed under the principles of multiple use and sustained yield.

H.R. 7211 would go beyond these principles and concepts and prescribe a rigid system of planning based on the principle of "dominant use." In effect "dominant use," would foster the zoning of areas for pre-dominant uses which in certain cases would become exclusive uses.

Under the Multiple Use-Sustained Yield Act the Forest Service uses a multiple use land management planning system which envisions and applies the setting of priorities of uses on individual land areas. But it differs from the dominant use approach in important respects.

First, the selection of priorities is not whether an area is "chiefly valuable" for some particular use. It is founded on the precepts of the multiple use doctrine which recognizes that land use allocations should not necessarily create the combination of uses that will give the greatest dollar return or the greatest unit of output. The term "chiefly valuable" is not defined by the bill, but implies emphasis on economic factors.

Secondly, our multiple use planning system does not contemplate the ultimate classification of all areas for a dominant use, as would H.R. 7221. Thus, even within areas classified for certain priority of uses, modifications are permissible to meet changing special, national, and local situations. Forest and range ecosystems are complex, interdependent biological and physical entities capable of providing multiple resource outputs. Long experience in managing the National Forests indicates that relatively modest expenditures and small sacrifices of a dominant or primary resource value can greatly enhance the production of the complementary resources, uses or activities from the same lands. For example, through slight modifications of timber harvesting methods with some reduction in timber values, wildlife habitat may be significantly improved.

Further, priorities we set under the multiple use doctrine do not contemplate exclusive use for any period. Our system requires careful, consistent coordination of various resource uses and activities at all times.

The differences and problems illustrate the difficulties of legislating a particular land use system. A rigid statutory system would discourage development and application of new resource allocation techniques. A less rigid approach would permit innovation and experimentation and allow adjustments to changing and local situations.

We understand the objective of congressional recognition of deliberate, judicious planning of public land uses. However, we do not agree with the approach H.R. 7211 takes that makes a priority of use system mandatory. We recommend instead that the multiple use approach be reaffirmed and that there be express recognition that a flexible use priority system is a part of the multiple use concept.

We do not believe that rigid statutory standards should be set with respect to specific consultation with certain groups and individuals. We believe departments and agencies are fully capable of securing participation in planning by the public in a more timely and workable fashion. Many of the goals sought in section 14 are currently being met. The Forest Service regularly publishes planning direction material

in their directives system and holds public hearings on major land use plans and decisions.

Subsection 14(e) would require the delineation of areas which would provide maximum public benefits in non-Federal ownership. We believe a basic principle is that National Forest lands should be retained in Federal ownership. We recognize limited adjustments in boundaries and ownership patterns are desirable. Subsection 14(e)(1) highlights some of the factors that should be considered in such adjustments.

Subsection 14(e)(2) relates to goals and objectives of the Act with which we have expressed concern. It does not recognize the statutory recognition and direction that National Forest System lands are to be managed on a permanent basis as national areas and fails to recognize a need to consider lands not in Federal ownership that should be acquired and placed in Federal ownership for maximum public benefit.

Subsection 14(e)(3) provides for disposal of Federal lands where needed in accordance with State and local government plans. Here again the national nature of National Forest lands is not considered. Rather, there is an abdication of Federal responsibility which tends to deny the American public representation in such decisions. There is no requirement that such disposal be for the maximum benefit of all the American public nor that similar lands owned by State and local governments or individuals and essential to Federal programs be acquired.

Subsection 14(f) requires detailed procedures for notice to groups and individuals of tentative land use plans. We agree that land use plans should be available for public review and that they should be coordinated with State and local plans. We do not agree that the very formal statutory rulemaking procedures should be used. Excessively formal coordination procedures will add significantly to costs and manpower requirements, may delay program accomplishments and add to public confusion and frustrations.

Subsection 14(g) requires that land use plans conform with State and local zoning unless there is a formal finding that there is an overriding national need. Provisions of this subsection ignore the national scope and significance of National Forest System lands. Local zoning is often not based on broad scientific land use planning and has often been subject to frequent change and great special interest pressures. Local zoning may also recognize strictly local interests which are not consistent with national needs or interests. The provision requiring a formal finding by the heads of a department or independent agencies is much too broad. We believe what is required is truly coordinated planning where the interests of all levels of government and their publics are considered.

Subsection 14(h) requires land use plans be prepared for each of ten regions and each State in addition to those required in section 8(b). We do not believe it advisable to direct by statute that additional land use plans be made for each State and Region as established by the Act. Land use plans should be made in such a manner that they can be effectively coordinated with State and local plans. The number or geographic description should be left to department or agency discretion since needs, location, and coordination vary greatly.

Section 15 deals with withdrawals and reservations of public land. We agree that large or permanent withdrawals should be made by Congress and that segregative effects of application for withdrawal are essential. However, the provisions of this section should expressly provide that reservations of public domain made to establish or enlarge the National Forest System are not subject to periodic review. National Forest System lands have a long established history as important national areas. The national significance and character of these lands has greatly increased in recent years with a corresponding continuous and strong support of both the people and the Congress of the National Forest System.

Subsection 15(a) and (c) provides that the Secretary of the Interior may make certain withdrawals and prescribes the procedure to be followed. We suggest that, since there would be greater congressional oversight, consideration be given that the Secretary having jurisdiction over the land involved be given withdrawal authority.

Subsection 15(b) establishes an elaborate and detailed procedure to be followed in making withdrawals. We believe the very detailed and cumbersome procedure can be greatly simplified and that details should be developed by the department or departments involved.

Subsection 15(g) provides for the review of existing withdrawals and reservations. We believe that consideration should be given, as we commented in subsection 15(a), for the Secretary having jurisdiction over the land involved to make such a review. We also believe periodic reviews should be made every ten years rather than every five.

Subsection 15(h) provides for procedures to be followed when the Secretary of the Interior finds that withdrawals proposed by another department cannot be justified. We believe, as in subsection 15(a) and (g) that such a determination should be made by the Secretary having jurisdiction over the land involved.

Section 16 provides for judicial review of administrative actions involving public lands. The provisions of this section appear to be extremely broad and difficult of interpretation. It is not clear whether one seeking the recognition of this section must first exhaust possible remedies under administrative appeals procedures.

This section appears to grant any person who is simply dissatisfied with any plan, order, rule, or decision access to the courts. Timely decisions must be made which inevitably do not satisfy everyone. Some reasonable and functional standards to challenge are required. We feel provisions of section 16 fall far short of this goal. Such broad provisions carry with them the potential of bringing timely planning and management activities to a halt based upon the dissatisfaction of one or more persons. Such a result could be patently to the detriment of the public. Present law is extremely broad in scope and appears entirely adequate to meet reasonable challenge to land management activities.

Access to the courts should be allowed only where administrative remedies have been exhausted. Administrative appeals procedures can be adequately developed by departments or independent agencies where they do not presently exist.

Section 17 provides that one year after the effective date of the Act, determinations by agencies based on any rules, regulations, practices, or procedures covered by this Act shall be unenforceable unless procedures required by this Act have been followed.

Existing rules, regulations, and procedures effective on the date of enactment should remain in effect and there should not be a requirement that they must be reestablished under procedures of the Act within one year. Existing rules, regulations, and procedures are generally well known and currently available to the public. Such a provision would create great public confusion and impose an expensive, time consuming, and unnecessary burden on the agencies involved.

THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT,
Washington, D.C., July 26, 1971.

Subject: H.R. 7211, 92d Congress (Aspinall, et al.).

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in further response to your request for our views on the above bill "To establish a public land use policy, to establish guidelines for its administration, and for other purposes."

The Department of Housing and Urban Development is sympathetic to many of the goals in the bill, particularly as they relate to such things as coordination with State and local plans and the management of public lands in support of housing and development needs. However, for the reasons enumerated below, the Department recommends that H.R. 7211 not be enacted.

We would not favor including within the planning and management system contemplated by H.R. 7211 all land owned by the United States regardless of how acquired. Publicly acquired lands consist mostly of relatively small and isolated plots of developed land and differ in many respects from the large tracts of undeveloped land which principally make up the public domain. Applying the same rules to both would not only be difficult and inefficient but could have a serious adverse impact on certain government operations. An example would be the mortgage insurance functions of this Department as they relate to properties on which insurance claims have been paid. These properties are necessarily acquired with a view to subsequent sale, the government's position being in many respects similar to that of a private lending institution holding property of a borrower after default. Such holdings should not be governed by rules largely designed for the long-term management of properties in which there may be little or no government interest in recovering investment or past expenditures.

Also of particular concern to this Department are provisions in the bill which would (1) establish a separate, statutory structure of advisory committees and interstate commissions with certain "coordination" functions as to public land, and (2) authorize financial assistance to the commissions and grants for unspecified purposes to States which participate in them. These provisions would create or tend to create new administrative agencies and new financial assistance programs at a time when the proliferation of specialized agencies and programs has come to be appreciated as a major problem. It is not at all clear how the agencies and grants authorized would relate to existing agencies and programs, such as the river basin commissions,

regional economic development commissions, or the comprehensive planning program of this Department. It seems likely, however, that the problems of duplication and overlap would be such that the bill might in this respect create more coordination problems than it would solve.

We are further concerned that these provisions for new organizations and new kinds of Federal assistance may pose problems of consistency in connection with the proposal the President has made for Federal legislation to encourage more effective State land use programs, as embodied in H.R. 4332. In fact, the problem of relationship between the two proposals is not limited to these provisions and could be particularly troublesome to the degree that H.R. 7211 is viewed as establishing basic approaches to which other proposals would have to conform or as being a step to precede adoption of a land use policy to apply to non-public lands. In our opinion, the relative priorities attaching to Federal legislation affecting land use should be considered in light of the fact that many of the most urgent land use problems relate to land, especially near our larger cities, that is currently unprotected by either government ownership or any adequate system of governmental regulation or controls Accordingly, we would hope that proposals designed to close this gap—specifically H.R. 4332—will be acted upon soon by the Congress.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

GEORGE ROMNEY.

VETERANS' ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR OF VETERANS' AFFAIRS,
Washington, D.C., July 27, 1971.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for a report by the Veterans Administration on H.R. 7211, 92d Congress, a bill "To establish public land use policy, to establish guidelines for its administration, and for other purposes."

The bill would establish a public land use policy and guidelines for the administration of public land. It would establish procedures for the retention, management and disposition of such land, establish advisory boards and committees to furnish advice and counsel to agencies involved, provide for regional coordination to implement its purposes, and provide for judicial review of decisions or orders issued in accordance with established procedures.

The Veterans' Administration acquires land for its facilities through purchase, donation, or transfer from other Federal agencies. Acquisition of such property is generally for a specific purpose such as the construction of a hospital, domiciliary, center, or cemetery, and the land obtained is usually of sufficient size to protect the facility from encroachment of incompatible or interfering industrial or other users of adjacent land. Furthermore, land is disposed of only after a determination has been made that it is not needed for the present or future care and treatment of veterans.

The administrative procedures imposed by the subject bill would appear to be cumbersome, particularly in their application to agencies such as the Veterans Administration with relatively small land holdings. Furthermore, there is a serious question whether such procedures would allow for consideration of the various factors which are unique to the land management program of this agency. Accordingly, we cannot recommend the favorable consideration of this bill to your Committee, insofar as it would apply to the activities and requirements of the Veterans Administration.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

DONALD E. JOHNSON,
Administrator.

GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE,
Washington, D.C., July 28, 1971.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in further reply to your request for the views of this Department concerning H.R. 7211, a bill "To establish public land use policy, to establish guidelines for its administration, and for other purposes."

This bill would have Congress affirm as its policy that the public land of the United States be retained and managed, or disposed of, in a manner to provide the maximum benefit for the general public. The Congress would further declare it to be in the public interest that the bulk of public land be retained in Federal ownership, for at least the foreseeable future, thus reversing the statutory policy of large scale disposal of public land. It would, however, provide for orderly disposition of public lands when such disposition would achieve maximum benefit for the general public. The bill would establish a system for the planning of public land use, to eliminate the inadequacies and inefficiencies of existing public land policy and law and establish administrative procedures supplementary to the planning process. All Federal agencies which exercise jurisdiction over the management of land owned by the United States would be required to consider the views of all parties interested in the management, use and disposition of public lands before any plans are promulgated; and all plans would have to include provisions for enhancement of the quality of the public lands, or at least the maintenance of existing quality. Federal land-managing agencies would be required to promulgate, within 180 days of the enactment of this bill, rules respecting the land under their jurisdiction. Proposed rules would have to be published within 60 days. Advisory boards to furnish advice and counsel to these agencies on land management would be established.

While the Department of Commerce agrees with broad objectives sought to be obtained by the bill, we oppose its enactment in its present form.

It was noted in the June 1970 report by the Public Land Law Review Commission that reform of the basic Federal land use policy

might be timely and would help to ensure the orderly management and development of such land in accordance with emerging environmental concern at all levels of the public and private sectors. This bill, however, seems deficient as an appropriate vehicle to accomplish these ends.

The bill sets forth as policy, to be implemented in the administration of public land, a requirement that the use of land will "at least maintain if not enhance the environment of such lands and others in their vicinity." (§ 2(a)(9), p. 3, l. 17–18). Similar language appears at § 3(b), p. 7, ll. 21–25; § 4(k), p. 11, ll. 16; § 5(e), p. 14, ll. 1–5; and § 14(e)(4), p. 39, l. 3–5.

These variously phrased, mandatory environmental considerations are not expressly related to the environmental protections represented by the Clean Air Act, as amended (42 U.S.C. 1857 et seq.), the Federal Water Pollution Control Act, as amended (33 U.S.C. § 461 et seq.) and the comprehensive 1971 environmental program presented by the President, all of which would apply to Federal lands.

The tests and requirements of the bill would, moreover, be impossible to meet in practice. Virtually any use of Federal lands would involve at least some change of the environmental characteristics of the land involved, and meaningful commercial uses such as mineral exploration or development would necessarily involve some alteration of the character of the land from its natural state. Such alteration would, under the bill as drafted, preclude usage of the land for such purposes.

Further, the quoted provisions would in many respects apply by their terms to impose the environmental standards of this bill "on and off" Federal lands (§ 3(b), p. 7, l. 24). Any disparity between standards or interpretations applied under this proposed bill and standards or implementation plans adopted by the states or by the Environmental Protection Agency pursuant to applicable environmental legislation, would result in direct conflict between the respective enforcement mechanisms, and serious uncertainty on the part of parties seeking to achieve compliance in their usage of non-Federal lands.

We would suggest that any statutory environmental protection provisions relating to Federal land use policy must be closely coordinated with and directly related to the mechanisms provided by appropriate environmental legislation.

Regarding usage of Federal lands now existing in a virgin or natural state, we strongly suggest that the balancing of environmental considerations with the economic factors involved in such usage is especially important, and deserves the most careful drafting attention.

The bill is seriously deficient in its procedural aspects as well. Provisions for specific requirements governing the rule making process and for judicial review of administrative determination differ in several important respects from those normally applicable in such circumstances pursuant to the Administrative Procedure Act, as codified in Chapter 5 of Title 5 of the United States Code. The provisions of §§ 6(b) and (c) with respect to the availability of information to the public would appear to be in conflict with the Freedom of Information Act. To the extent that statutory enactment of formal procedures to govern the administration of Federal land use is deemed necessary, we suggest that adoption of the standard provisions of the APA

would minimize any possible confusion or uncertainty in their application and be strongly preferable to specialized procedural requirements.

It would also appear that the provisions of § 14 of the bill relating to zoning for particular uses lack clear guidelines and are unrealistic. It would be virtually impossible to determine in such a proceeding the relative value of the use of land for purposes of mineral exploration and development. Determination of the best possible use would, in such circumstances, require prior extensive exploratory efforts by potential users. No express provision, for such efforts is, however, incorporated in the bill.

We defer to the Department of the Interior for more detailed consideration of the necessity for the respective advisory committees provided for in the bill, but note that substantial overlap appears to exist with respect to their responsibilities.

Finally, while we agree that great care in the use of public lands and their resources is necessary to ensure proper protection of the environment, we would oppose the adoption of a Federal policy which would thwart the orderly development of the economic potentialities of lands under Federal ownership. An important factor in determining the "maximum benefit to the general public" is the economic benefit or economic loss of any Federal action. This is particularly so where such immense, untapped resources as are represented by the Federal lands are involved. These resources may well become vital in providing the economic health of the nation.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of our report to the Congress from the standpoint of the Administration's program.

Sincerely,

WILLIAM N. LETSON,
General Counsel.

DEPARTMENT OF THE ARMY,
Washington, D.C., July 29, 1971.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request to the Secretary of Defense for the views of the Department of Defense on H.R. 7211, 92nd Congress, a bill "To establish public land use policy, to establish guidelines for its administration, and for other purposes." The Secretary of Defense has delegated to the Department of the Army the responsibility for reporting the views of the Department of Defense thereon.

The purposes of the bill as stated therein are (1) to provide a system for the planning of public land use that will eliminate the inadequacies and inefficiences of existing public land policy and law; (2) to further eliminate inadequacies and inefficiencies by establishing other administrative procedures supplementary to the planning process; and (3) to provide technical and financial assistance to regional, state, and local governments within whose geographic boundaries public lands are significant, in order to assure the development and execution of state and local planning with which public land planning can be coordinated. The bill defines "public lands" to mean "any land owned

by the United States within any of the States of the United States without regard to how the United States acquired ownership of the land and without regard to the agency having responsibility for management thereof."

The bill includes findings by Congress relating to all aspects of public administration of the public lands, past, present and future, declares a Congressional policy for and establishes goals for future administration of public lands, and establishes substantive procedures for a systematic program of land use planning for all public lands. As a part of the fulfillment of its objectives, the bill provides that each agency, unless there is a formal finding by the head of the agency that the security of the United States would thereby be impaired, shall initiate comprehensive rule-making procedures which shall be published in the Federal Register and be made available for public inspection and challenge. The bill also provides for the establishment, funding and operation of advisory boards, regional coordinating committees and regional planning commissions and a special planning commission for the State of Alaska, to participate in consultations on and review of land use plans and rule-making. Prominent in the principles set forth for land use planning is the concept of multiple use to the greatest extent possible. The bill further sets up detailed new procedures for withdrawal and reservation of public lands, provides for broad judicial review of all actions in administration of the public lands, requires compliance with the measure as a condition precedent to enforcing administration of public lands and repeals certain existing laws. By the definition of "public lands", this legislation would encompass not only public domain lands but acquired lands as well.

The Department of the Army on behalf of the Department of Defense is in accord with many of the broad objectives of H.R. 7211 but is opposed to its enactment for the reasons set forth hereinafter.

The principal objection to this bill insofar as the Department of Defense is concerned is the inclusion of the lands of the Department of Defense within the purview of the bill. Such Defense lands are not specifically mentioned in the bill, but would be covered under the broad definition of "public lands" in Section 4(a).

This department is not in accord with the concept of classifying in the same category lands that have been withdrawn, set aside, or otherwise obtained from the public domain and lands that have been acquired, under statutory authorization, by purchase, condemnation, donation, or otherwise, for its use. Insofar as the Department of Defense is concerned, it must be observed that there is a large body of existing law and regulations pertaining to the acquisition, use and disposal of acquired lands and an entirely distinct body of law and regulations pertaining to public domain land that would be affected by the bill. For the military departments, the removal of the distinction between the two types of lands would create confusion as to which laws and regulations are to govern in the future.

It is particularly objectionable that all lands administered by the military departments would be under the administrative rules and procedures which would be established under Sections 6 through 18 of the bill. H.R. 7211 establishes procedures that require publication of all regulations, orders, opinions and rules as well as public participation in rule-making at all administrative levels. These

requirements would generally be inappropriate to lands administered by the military departments in view of the nature and purpose of military installations and facilities. These requirements also would be time consuming, would not be compatible with the timely implementation of military programs and would be impracticable and unnecessary, or contrary to the public interest.

Ancillary to the planning and rule-making procedures, Sections 7 through 10 provide for the establishment and functioning of advisory boards and committees, regional coordinating committees and commissions, and the financing thereof. It is agreed that there is generally a need for coordination with Federal and non-Federal agencies in planning the use of public lands. However, the finding of the bill that there must be the "highest degree of coordination" between Federal agencies and state and local units, and the establishment of national advisory boards, subsidiary advisory boards, advisory committees, Federal Land Use Coordinating Committees, and Interstate Land Use Coordinating Commissions would result in a cumbersome burden on an already complicated system, with little or no additional benefit insofar as Department of Defense lands are concerned. As previously stated, it is believed that existing laws and procedures adequately provide for accomplishment of the coordination objectives stated in the bill insofar as practicable with respect to lands under the military departments.

With reference to withdrawals and reservations. Section 15, the second sentence of Section 15(a), lines 19 through 22 of page 40 provides that the "Secretary is further authorized, upon application of the head of any other agency, to similarly withdraw or set aside land under the administrative jurisdiction of the requesting agency." The meaning of this sentence is not clear. However, in view of the definition of "public lands", this sentence could be interpreted to mean that the military departments would be required to apply to the Secretary of the Interior for the right to use acquired lands. Since lands under the jurisdiction of the military departments are acquired pursuant to specific acts of Congress, the Department of Defense objects to a requirement that the military departments make application to the Secretary of the Interior or to the Congress, as indicated in Section 15(e), for permission to use lands which have been otherwise acquired with funds made available to the departments by the Congress.

To the extent that the findings in Section 2(a) are made applicable to lands under the jurisdiction of the military departments, this department does not agree that the land policies and laws governing them are either inadequate to meet current and future needs or inconsistent with national policies or with each other, or that Congress has failed to exercise authority over the retention, management, and disposition of lands under the military departments. Lands held by the military departments have been acquired pursuant to authorization and funding by Congress, specifically for approved military purposes or water resource development projects. This department acquires no properties for undetermined purposes.

The findings that land management agencies have promulgated rules and regulations without proper consultation with the general public, that the absence of long-range goals and objectives makes it possible that the lands may not contribute the maximum benefit for

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the public, that public lands should be retained in Federal ownership unless it is conclusively determined that disposal would achieve maximum benefit for the public, and that it is in the national interest to dispose of lands to state and local governments, require comment insofar as they are applied to lands under the military departments.

It is the policy of the military departments to plan the management and utilization of lands on military installations, first, as a support to the military mission and, second, for the maintenance, protection, and conservation of the areas and the associated renewable natural resources. Goals and objectives are developed and implemented by means of specific programs for land, forest, landscaping, fish and game management. Plans are based on inventories, appraisals, and recommendations provided by qualified technicians and representatives of local, state and Federal organizations whose principal concerns are natural resources. Necessarily, the long-range goals that should be part of any technically sound land use policy are involved, such as forest, fish and game development, watershed stabilization and the like. Consequently, any entity obtaining jurisdiction over excess lands of the military departments will find significant progress has been made in implementing national conservation policies.

At water resource development projects, in recognition of the potential for recreational use and for fish and wildlife management purposes, it is the policy of the Department of the Army to development long-range plans for such use after consulting with Federal, state and local agencies. Public meetings are held to obtain the views of the citizens who are affected by or who will benefit from the recreational and other resources of the project. The authorized purposes have been conclusively determined by the Congress to be the primary purpose, must be the dominant use, and all other uses of these lands must be subordinate thereto or for interim use pending their ultimate use for the primary purposes. Congress has specifically authorized such interim uses (10 U.S.C. 2667; 16 U.S.C. 460d) and these authorizations have been extensively used. Additionally, coordination with state and local units of government is now required by the Intergovernmental Cooperation Act of 1968.

The determination as to when the lands are no longer needed to serve the assigned mission must reside with those charged with the responsibility for the mission. The disposition of Department of Defense lands when no longer needed for any purposes of the military departments is governed strictly by existing law. Lands which have been determined excess to the needs of the Department of Defense are reported to the General Services Administration for disposition under the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended. Lands withdrawn from the public domain, if determined suitable, are returned to the public domain. It does not appear that the bill contemplates the repeal of the Federal Property and Administrative Services Act, particularly as it is not enumerated in the repealer section. Present procedures require periodic surveys to determine what properties are under-utilized, and therefore, should be reported excess. This policy has been reiterated and at present is being strongly enforced under Executive Order 11508 (35 Fed. Reg. 5260 (1970)).

In addition to the objections expressed concerning the definition of "public lands", there is objection to other terms and definitions contained in Section 4, in that the terms "maximum benefit for the general public", "classification", "multiple use", "sustained yield", and "dominant use" could not be applied to military lands because they are incompatible with the Congressionally authorized missions of these lands.

The proposed legislation presents a problem of special concern to the Department of the Navy with respect to its Petroleum Reserves. The bill would, in effect, remove final responsibility for operation of the Naval Petroleum Reserves from the Secretary of the Navy and place such responsibility upon the Secretary of the Interior. This procedure is objectionable to the Navy since the Secretary of the Interior would be placed in the position of determining whether these Reserves meet the Defense needs of the Nation, a responsibility which he does not presently have. In addition, the Defense orientation of these Reserves is recognized by statute requiring that recurring reports be made to the Armed Services Committees of Congress. It is assumed that this bill would eliminate such reports, and thus appropriate review by the Armed Services Committees.

For the reasons set forth above, the Department of the Army, on behalf of the Department of Defense, reiterates that it is opposed to H.R. 7211, to the extent that it includes lands under the control of the military departments within its scope, Insofar as the bill pertains to public lands administered under the public land laws, to which category the objectives of the bill appear to be oriented, the Department of Defense would defer to the views of the Department of the Interior or any other agency which administers lands in similar category.

The fiscal effect of this bill cannot be readily ascertained but compliance with the measure would result in increased budgetary requirements.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Office of Management and Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report to the Committee.

Sincerely,

ROBERT F. FROEHLKE,
Secretary of the Army.

OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., July 30, 1971.

Hon. WAYNE N. ASPINALL,
Chairman, House Committee on Insular Affairs,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on H.R. 7211, a bill "To establish public land use policy, to establish guidelines for its administration, and for other purposes."

H.R. 7211 represents the implementation of certain recommendations by the Public Land Law Review Commission in its report dated June 1970, particularly the recommendations contained in chapters 3, 4, and 16, as well as various other chapters to the extent that criteria for land classification were considered.

The purpose of the bill, as set forth in section 2(b), is to eliminate "inadequacies" and "inefficiencies" of existing public land policy and law by providing a system for land use planning and for administrative procedure. In addition, the bill provides for financial assistance to regional, state, and local governments with respect to land use planning.

We question whether H.R. 7211 fulfills its purposes. The bill sets forth a lengthy and an unnecessarily cumbersome land use planning procedure, which it appears would make the administration and management of the public lands more complex and unwieldly than at present. The procedures for land use constitute an informal delegation of the authority of the administrative agencies to the States and to what might be termed special interest groups by providing for the administration of the public lands by advisory boards and committees. As a result, it would seem to be conducive to providing the maximum opportunity to preserve the status quo to the detriment of sound, long-range, land use planning.

Additionally, the bill's procedure for land use planning is encumbered by procedures which would require the solicitation of views and, in most instances, public hearings. Also, any person who submitted views to the agency would be entitled to judicial review of the agency action.

The system for land use planning proposed in the bill can be illustrated by a brief summary of the procedures which must be followed with one exception, where the national security is involved.

Section 7(a) would require the head of each public land agency to establish an advisory board composed of 25 members, representative of a "cross section of groups" interested in public land management. Section 7(b) would require the head of each subsidiary agency also to establish a 25 member advisory board. (The Department of the Interior, the principal public land management agency, would establish at least seven advisory boards). In addition, section 7(c) would require "the head of each regional, state, district, or other local land management agency to establish an advisory committee of 10 to 25 members."

Section 8 would establish ten regional Federal Public Land Use Coordination Committees composed of a representative of each federal agency within the region boundary. Section 9 would establish an Interstate Land Use Coordination Commission composed of representatives of regional, state, and local governments within the boundaries of the region. Section 11 would establish a special Joint Federal State Commission for Alaska.

In the development of land management plans, section 14(b) would require each land management agency at the national, regional, or local level to consult with "persons interested" in the management of the public lands, the advisory boards and committees, and representatives of state and local governments. Section 14(c) would require that consultations also be held "in advance of the initial draft of any rule, regulation, proposed action, classification, or other determination"

with the regional committees and commissions. Section 14(f) would require following the tentative adoption of a land use plan that the agency "again consult" with the appropriate regional committee and commission, and the proposed plan would be published in the Federal Register "for consideration by all concerned." Where specific tracts of land are involved, section 6(d) would require consultation with local governments, authorized users of lands, applicants, others known to be interested in the use of the land, and those owning land adjacent to the public land involved.

Section 6(f) would provide that the notice of proposed rulemaking afford "any one interested" the opportunity to submit written comments and would provide that public hearings be held on any rule of general application, and also any rule of special application, unless a finding is made that the proposed rule has no significant impact. In the case of withdrawals, hearings would be held if requested by a State where the notice did not so provide. Any person who submitted views to an agency in the course of rulemaking would be afforded the right to judicial review under section 16(a). Section 17 would provide that unless these procedures have been followed, agency action would be unenforceable.

Turning to the substantive provisions of the bill with regard to criteria for land use planning, section 14(d) directs that lands be classified in order to obtain "the maximum benefit for the general public." Section 4(n) defines the term as including the consideration of all factors "most likely to achieve the policies, and the greatest number of goals and objectives" set forth in sections 3 and 5 of the bill. These sections contain broad statements of policy, many of which do not appear to be criteria applicable to land classification. For example, see section 5(h), (j), (k), (l), and (m). Such provisions coupled with provisions for judicial review would certainly lead to unnecessary litigation.

Also, in this respect the bill intermingles inextricably statements of policy and the establishment of legal rights. If section 2(a) establishes legal rights, then it would be arguable that "all public domain disposition laws," which would include the mining laws, would be repealed by subsection 2(a)(14) of the bill. This too would lead to unnecessary litigation. We believe such statements of policy or findings should be included in committee reports instead of legislation.

With respect to sections 6 and 16, concerning administrative procedure and judicial review, we believe that the provisions are unnecessary. For the most part section 6 appears to be an attempt to remove "public land" from the "public property" exemption of the Administrative Procedure Act. 5 U.S.C. sec. 553(a)(2). It also appears that section 6(g) would be construed as prohibiting adjudicatory rulemaking by providing that the interpretation of regulations be accomplished only through rulemaking procedures.

Section 16 would provide that any person who submitted views in the course of rulemaking shall be entitled to judicial review. It is not clear whether the section, in and of itself, is jurisdictional, whether it broadens the scope of review and entitles an aggrieved party to a de novo hearing, or limits the party to judicial review as set forth in 5 U.S.C. sec. 704 (Supp. V, 1970). We are opposed to expanding the scope of judicial review beyond the limits presently recognized in *Citizens to Preserve Overton Park, Inc.* v. *Volpe*, 401 U.S. 402 (1971),

and view this section as unnecessary. Further, because "any one interested" may participate in rulemaking, and thus be entitled to judicial review, we question whether the section may not be violative of the constitutional requirement for the existence of a case or controversy. See *Data Processing Service* v. *Camp*, 397 U.S. 150 (1970).

Subject to the above comments, the Department of Justice defers to the land management agencies as to whether this legislation should be enacted.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

RICHARD G. KLEINDIENST,
Deputy Attorney General.

FEDERAL POWER COMMISSION,
Washington, D.C., August 6, 1971.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs, House of Representatives, Longworth House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request of April 8, 1971, we enclose the report of the Federal Power Commission on H.R. 7211.

The Office of Management and Budget advises that while there is no objection to the submission of this report the views of the Administration on H.R. 7211 are set out in the other reports that have been sent to the Committee.

Sincerely,

JOHN N. NASSIKAS,
Chairman.

Enclosure.

FEDERAL POWER COMMISSION, REPORT ON H.R. 7211, 92D CONGRESS, A BILL TO ESTABLISH PUBLIC LAND USE POLICY, TO ESTABLISH GUIDELINES FOR ITS ADMINISTRATION AND FOR OTHER PURPOSES

Both the sponsorship and the content of H.R. 7211 indicate that it is intended to carry out some of the more general and basic recommendations of the Public Land Law Review Commission, a statutory body that conducted a six-year study in depth of the laws, policies, and administrative practices governing the use and disposal of Federal public lands.[1] The central theme of that report emphasizes the need for Congress to exercise more systematically and more specifically its constitutional power "to dispose of and make all needful Rules and Regulations respecting the Territory or other property belonging to the United States." The fundamental recommendations of the Commission are consistent with that highly desirable objective and the provisions of the bill appear to be in substantial accord with the Commission's conclusions.

As indicated below, however, the bill is designed to provide legislative guidance or statutory standards to those agencies of the government exercising Federal land management functions. To that extent,

[1] Report submitted to the President and the Congress, dated June 20, 1970, entitled, *One Third of the Nation's Land.*

and as to the vast majority of the provisions of the bill, we must and do defer to the experience and expertise of those agencies which have that primary responsibility. Our interest in this particular bill is concentrated primarily in those provisions which would or might affect the use of public lands for the licensed development of hydroelectric power resources by non-Federal authorities or interests.

We observe at this point that this Commission also has broad interests and responsibilities in the general area of national energy policies, including reliable supplies of electric power and natural gas service to the public at reasonable rates. Increasingly, problems are being encountered in the siting of generation and transmission facilities, adequate fuel sources for thermal plants, and the maintenance of acceptable reserve levels for natural gas pipeline systems. These aspects of present national concern do not appear to be affected by the bill under consideration, however, and we reserve specific comment on them at this time. They will undoubtedly be directly involved in other legislative proposals to implement some of the more substantive recommendations of the Public Land Law Review Commission.

A major portion of H.R. 7211 is devoted to the expression of legislative findings and purposes, a declaration of policy, and a common definition of terminology. Its second area of emphasis lies in the creation of coordinating mechanisms for the promotion of Federal-State-regional consultation in reaching land-use decisions for the Federal domain. From a substantive standpoint, the most significant change in existing law proposed by the bill is the repeal of the act of June 25, 1910 (61 Stat. 847; 43 U.S.C. 141)[2] and substitution of detailed statutory procedures, guidelines, and limitations to govern withdrawals and reservations by the Secretary of the Interior.

Although there may be some ambiguity in the matter, our analysis of the proposed legislation persuades us that there was no intent to, nor does the bill in fact, have any impact or effect upon the functions, authority, or responsibilities of this Commission. At least three indicators support this interpretation:

a. None of the statutes administered by this Commission are expressly amended or repealed by the terms of the bill. Nor is such a modification to be found in necessary implication.

b. The operative effect of the bill is to regulate or control the actions, authority, and procedures of any "agency" covered by the bill. "Agency" is defined as any Federal authority or organization unit "that has or exercises jurisdiction over the management of any land owned by the United States." This Commission exercises no administrative control over any Federal lands and does not qualify as a land managing agency as that term is generally used.

c. Finally, in the area that most closely borders on our public land interest, the term "withdrawal" is defined as "setting aside of land for public purposes for *use by an agency.*" (Emphasis supplied.) To the extent that the filing of certain applications (for permits or licenses) with this Commission operate to create a reservation for water power purposes,[3] the result is similar to a withdrawal under other legal

[2] Popularly known as The Pickett Act or General Withdrawal Authority Act.

[3] The Federal Power Act (16 U.S.C. 791a–825r) authorizes the Federal Power Commission to issue licenses to non-Federal entities for the purpose of constructing, operating, and maintaining water power developments on any one of the stream over which Congress has jurisdiction under its authority to regulate interstate and foreign commerce, or upon public lands and reservations of the United States, or for the purpose of utilizing surplus water or water power from any Government dam.

authorities. However, such reservation is not "for use by" this Commission, as contemplated by H.R. 7211.

Section 24 of the Federal Power Act,[4] automatically and by operation of law, reserves from disposal under the public land laws and sets aside for power development any lands of the United States included in a proposed project from the date an application for a preliminary permit or for a license is filed under the Federal Power Act, until otherwise directed by the Commission or by Congress.

Also, with respect to lands withdrawn or reserved for power purposes pursuant to the authority of the Secretary of the Interior through the Bureau of Land Management or the Geological Survey, Section 24 provides that vacation of the withdrawal or reservation and restoration of such lands to entry, location, or selection under the public land laws may be effected upon a favorable determination by the Federal Power Commission that their power values will not be destroyed or injured either by permitting their use for other non-power purposes subject to any appropriate restrictions or by permitting them to be disposed of subject to the reserved right of the United States to re-enter for power purposes.

The clear purpose of the Federal Power Act, and particularly Section 24 thereof, is designed to protect the interests of the public and of the United States Government in the use of lands reserved for their special power values. Provision is made for the use of such lands for non-power purposes, either concurrently with their use for power purposes or until such time as the lands are required exclusively for power purposes, but under properly controlled conditions.

It should be noted that under Section 24 it is a prerequisite for disposal of all power site reserves described in the third sentence of that section of the Act that there be a determination by the Federal Power Commission "that the value of any lands of the United States so applied for, or heretofore or hereafter reserved or classified as power sites, will not be injured or destroyed for the purposes of power development."

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[4] This section of the Act reads as follows:

Any lands of the United States included in any proposed project under the provisions of this Part shall from the date of filing of application therefor be reserved from entry, location, or other disposal under the laws of the United States until otherwise directed by the Commission or by Congress. Notice that such application has been made, together with the date of filing thereof and a description of the lands of the United States affected thereby, shall be filed in the local land office for the district in which such lands are located. Whenever the Commission shall determine that the value of any lands of the United States so applied for, or heretofore or hereafter reserved or classified as power sites, will not be injured or destroyed for the purposes of power development by location, entry, or selection under the public land laws, the Secretary of the Interior, upon notice of such determination, shall declare such lands open to location, entry, or selection, for such purpose or purposes under such restrictions as the Commission may determine, subject to and with a reservation of the right of the United States or its permittees or licensees to enter upon, occupy, and use any part or all of said lands necessary, in the judgment of the Commission, for the purposes of this Part, which right shall be expressly reserved in every patent issued for such lands; and no claim or right to compensation shall accrue from the occupation or use of any of said lands for said purposes. The United States or any licensee for any such lands hereunder may enter thereupon for the purposes of this Part, upon payment of any damages to crops, buildings, or other improvements caused thereby to the owner thereof, or upon giving a good and sufficient bond to the United States for the use and benefit of the owner to secure the payment of such damages as may be determined and fixed in an action brought upon the bond in a court of competent jurisdiction, said bond to be in the form prescribed by the Commission: *Provided*, That locations, entries, selections, or filings heretofore made for lands reserved as water-power sites, or in connection with water-power development, or electrical transmission may proceed to approval or patent under and subject to the limitations and conditions in this section contained: *Provided further*, That before any lands applied for, or heretofore, or hereafter reserved, or classified as power sites, are declared open to location, entry, or selection by the Secretary of the Interior, notice of intention to make such declaration shall be given to the Governor of the State within which such lands are located, and such State shall have ninety days from the date of such notice within which to file, under any statute or regulation applicable thereto, an application for the reservation to the State, or any political subdivision thereof, of any lands required as a right-of-way for a public highway or as a source of materials for the construction and maintenance of such highways, and a copy of such application shall be filed with the Federal Power Commission; and any location, entry, or selection of such lands or subsequent patent, thereof, shall be subject to any rights granted the State pursuant to such application.

Pursuant to the above authority, the Commission in an appropriate case may determine that the power value is such that retention of the lands as a power site is not warranted. It may determine that the power potential is such that the lands may be disposed of subject to an appropriate reservation under Section 24 of the Federal Power Act of the right of the United States or its permittees or licensees to use such lands for hydroelectric power purposes. In some circumstances, it may determine that the lands have such value that they should not be disposed of under the public lands laws.

The potential ambiguity as to the effect of H.R. 7211 on our responsibilities for power site reservations extends also to the procedures required by Section 15(g) of the bill for periodic review of certain past and future land withdrawals. We are in full accord with the view that such reviews should be conducted on a current basis and that five years is a reasonable period in that respect. Indeed, we have been engaged in such a program with the involved agencies of the Department of the Interior and are confident that all power site withdrawals and reservations, whether made under the terms of the Federal Power Act or authorities available to the Secretary of the Interior will have been reviewed within the ten-year initial period provided in this bill.

If the bill is to be favorably considered we think it should make clear that nothing contained in H.R. 7211 is intended to change the Commission's present responsibilities under Section 24 of the Federal Power Act (16 U.S.C. 818) over power site resources on the public lands.

Subject to the above clarification, designed to preserve this Commission's surveillance responsibilities over power site resources on the public lands, we offer no objection to the favorable consideration of H.R. 7211.

The Office of Management and Budget advises that while there is no objection to the submission of this report the views of the Administration on H.R. 7211 are set out in the other reports that have been sent to the Committee.

JOHN N. NASSIKAS,
Chairman, Federal Power Commission.

U.S. WATER RESOURCES COUNCIL,
Washington, D.C., August 20, 1971.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for a report on H.R. 2173, H.R. 7804 and H.R. 8503, bills "To amend the Water Resources Planning Act . . . to include provisions for a national land use policy . . . ."

The Water Resources Council of Representatives decided on May 26, 1971, that the Council would not submit reports on proposed legislation because Council Members would generally be reporting separately to the committees of Congress in connection with legislative proposals.

Sincerely yours,

W. DON MAUGHAN,
Director.

U.S. Department of the Interior,
Office of the Secretary,
Washington, D.C., September 9, 1971.

Hon. Wayne N. Aspinall,
Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, D.C.

Dear Mr. Chairman: This responds to your request for the views of this Department on H.R. 2173, a bill "To amend the Water Resources Planning Act (79 Stat. 244) to include provision for a national land use policy by broadening the authority of the Water Resources Council and river basin commissions and by providing financial assistance for statewide land use planning." The comments herein also apply to identical bills H.R. 7804 and H.R. 8503.

We recommend that in lieu of H.R. 2173 there be enacted H.R. 4332, the Administration's National Land Use Policy Act of 1971.

H.R. 2173 expands the scope of the Water Resources Planning Act to include as an additional function of the Water Resources Council, the administration of a national land use policy and program which is contained in title III of the bill.

Titles I, II and IV of H.R. 2173 are basically the original Water Resources Planning Act rewritten to reflect the expanded function of the Water Resources Council, renamed the "Land and Water Resources Council", and to expand the duties of the river basin commissions to include coordination of land use activities.

Title III of H.R. 2173 is the most significant addition to the Water Resources Planning Act. It creates "A National Land Use Policy and program of assistance to the States". The extensive statement of findings, policy and purpose which preface title III vividly outlines the need for far-reaching changes in the ways in which land use decisions are made in this country. It cites the irreparable environmental damage, the waste of human and economic resources, and the proliferating urban sprawl which has resulted from lack of planning and coordination in land use decisions. Issues of lasting concern to the well-being of a State, region or even of the Nation are frequently decided on the basis of expediency or the short term economic benefit to individuals or local communities, to the detriment of the broader interests.

On February 8, 1971, in his message to the Congress on the environment, President Nixon stated:

"The use of our land not only affects the natural environment but shapes the pattern of our daily lives. Unfortunately, the sensible use of our land is often thwarted by the inability of the many competing and overlapping local units of government to control land use decisions which have regional significance.

"While most land use decisions will continue to be made at the local level, we must draw upon the basic authority of State government to deal with land use issues which spill over local jurisdictional boundaries. The States are uniquely qualified to effect the institutional reform that is so badly needed, for they are closer to the local problems than is the Federal Government and yet removed enough from local tax and other pressures to represent the broader regional interests of the public. Federal programs which influence major land use decisions can thereby fit into a coherent pattern."

On February 11, 1971, this Department sent to Congress the Administration's proposed bill to establish a national land use policy. This bill has been introduced and is now pending before your Committee as H.R. 4332. For reasons discussed below, we feel that H.R. 4332 will better accomplish the important objectives common to both bills than H.R. 2173, and we recommend that H.R. 4332 be enacted in lieu of H.R. 2173.

Both bills are directed at the same basic problem and there are many similarities on the proposed solutions. Both recognize that the States have primary constitutional authority for land use regulation and both would encourage, by means of Federal grants, the States to exercise this authority better. Grants are conditioned upon compliance with specific statutory criteria which largely consist of procedural directives. The State must establish a land use planning agency with sufficient authority to develop methods for controlling certain types of land use. Both bills provide for coordination of State plans with plans of other States, Federal agencies or other interested parties.

Both bills require Federal actions and federally-supported activities generally to conform to federally approved State plans.

Of all man's activities, his use of the land has the most far-reaching impact on the environment. Adverse impacts are often irreversible, and as pressures from population and economic growth expand, the number of adverse impacts will increase. To reverse trends which could in a few life times cause irretrievable damage to the natural values formed through billions of years, will require nothing less than a profound reshaping of the institutions and attitudes that make up the pattern of land use in this country; attitudes towards property and natural resources that date back to the American frontier and before.

This will not be accomplished overnight, or by a single piece of legislation. It will certainly require the efforts of all the sectors of our society working together to provide a quality environment based on ecologically sound principles of development.

The National Environmental Policy Act and other specific pollution control measures have brought us closer to this goal. H.R. 4332 and H.R. 2173 are intended to be a next logical step. The principal difference between them is, in our view, that H.R. 2173 tries to cover so much ground in a single stride that its directives sometimes lack clarity and sharp focus. The efforts it seeks to promote are likely to be too widely diffused to achieve its objectives. The expressed aim of H.R. 2173 is to develop a national land use policy incorporating "ecological, environmental, esthetic, economic, social and other appropriate factors." The bill further states that the policy would favor ecologically sound land use planning, management and development and, at the same time, foster beneficial economic activity in all States and regions of the United States, favorably influence patterns of migration to make available to the American people a wide range of scenic, environmental and cultural amenities, revitalize rural communities, facilitate coordination of Federal programs, and systematize methods for the exchange of land use, environmental and ecological information.

This charter is so all encompassing that its objectives are not brought into sharp focus and the effort it engenders will, we feel, be diffused too broadly to accomplish meaningful results.

Much of the effort it promotes is directed at developing planning data and data exchange centers. The immediate problem is not, in our view, attributable to lack of good plans but to the lack of effective methods to implement them. Until the institutions which control land use are restructured, the further accumulation of planning data would be largely fruitless.

SELECTIVE IDENTIFICATION OF PRIORITIES

The Administration's bill is more selective and specific and for that reason, we feel has a greater probability of achieving its overall aims. It concentrates on what we consider the two most immediate aspects of the problem: reforming the State institutions in which land use decisions of more than local concern are made, and coordinating Federal programs or federally supported programs which have an impact on land use.

The State agency provided for in the Administration's bill would not, as in H.R. 2173, be responsible for planning and control of land use for virtually the entire State. H.R. 4332 recognizes that the great majority of land use decisions are of purely local interest and should continue to be made locally. The Administration's bill would require the State agency to regulate only those land use decisions which the State decides are of more than local importance.

Narrowing the scope of the bill in this way serves two purposes. First, it concentrates State and Federal resources on the most critical problems; and second, it limits State involvement in local affairs to those issues of State or regional importance. Where the State does become involved, it will not always be to the detriment of local interests. A Statewide planning agency may provide a stability and continuity necessary for certain types of development. Other issues will involve decisions which might not result in increase of the local tax revenues, normally an important consideration to any community, but which might produce greater long term benefits to the community as, for example, by assuring available recreation areas to attract future residents.

As the States gain experience in developing methods to effectively implement land use plans, they and the Federal agency which administers the program, will develop a better grasp of the type of planning data which is relevant to effective land use planning.

FEDERAL JURISDICTION

A major specific difference between H.R. 4332 and H.R. 2173 is the provision for Federal jurisdiction over the program. H.R. 2173 gives Federal administrative control to an expanded Water Resource Council whereas the Administration's bill places primary administrative responsibility in the Department of the Interior with provision that no program management grant will be approved unless the Secretary of Housing and Urban Development is satisfied that those aspects of the State program dealing with large-scale development, key facilities development of land use of regional benefit and new communities meet the bills requirements for such grants.

The Department of the Interior has leading land and natural resource management expertise in the Federal government. The Department of Housing and Urban development has leading expertise

in urban planning. Both Departments currently conduct or sponsor a great number of Federal programs which would directly relate to and require coordination with approved State land use plans. Accordingly, we feel that H.R. 4332 is highly preferable in this respect.

ORGANIZATION OF STATE AGENCY

H.R. 2173 contains some fairly specific requirements for the make-up of the State agency (§§ 304, 305). H.R. 4332, in keeping with the Administration's objective of giving maximum responsibility to the States, provides simply (§ 104(g)) that the Governor shall develop the organizational basis for the program. Following this principle the Administration's proposal provides a variety of acceptable methods for implementing the program ranging from court enforcement of State set standards to outright State regulation or joint State-local regulations with a provision for the State to override the locality in cases of more than local impact. Land acquisition authority is intentionally omitted. State acquisition is regarded as the least desirable means of accomplishing sound environmental planning since it is costly and tends to discourage constructive innovation. Moreover, the burden of managing the acquired land might divert the agency from its principal objective.

COASTAL ZONE

The Administration's bill gives specific attention to the coastal zone which includes river estuaries, coastal marshes and all other coastal wetlands. These areas are choice targets for developers. When filled they provide easily developed, choice waterfront property. Marine biologists have long realized that these areas are essential breeding grounds and nurseries for much of the marine population. To destroy our coastal wetlands may produce short-term economic gain but greater long term losses.

Since the principal threat to these coastal areas is essentially land based activity, we are treating the coastal zone problem in the broader context of comprehensive land-use policy.

To assure that coastal zone and estuarine management receive the priority attention of coastal States, H.R. 4332 would identify the coastal zones and estuaries as "areas of critical environmental concern" and require that a State's land use program include a method for inventorying and designating such areas. Further the Secretary would be authorized to make grants for program management only if State laws affecting land use in the coastal zone and estuaries take into account (1) the aesthetic and ecological values of wetlands for wildlife habitat, food production sources for aquatic life, recreation, sedimentation control, and shoreland storm protection and (2) the susceptibility of wetlands to permanent destruction through draining, dredging, and filling, and the need to restrict such activities. Most important, perhaps, funds for program development and management would be allocated to the States under regulations which must take into account the nature and extent of coastal zones and estuaries.

H.R. 2173 makes no specific provision for the problems of the coastal zone.

PROGRAM DEVELOPMENT GRANTS

The Administration's bill provides two annual "program development grants" conditioned on expressed intent to use the money to develop a land use program meeting the requirements of the Act. H.R. 2173 embodies the same concept of a program development grant with two differences: it extends the period of eligibility from two to five years and adds nine specific conditions for "continued grant eligibility" during the five years. It is unclear to what extent each condition must be met by the end of each year. In any event we feel that two years is sufficient time to develop the basic program and that successive grants should be conditioned upon specific accomplishments.

AUTHORIZED FUNDING

A major difference between the two bills is the amount authorized and the sharing formula. H.R. 2173 authorizes $100 million annually with the Federal government paying up to 90% of the costs in the first five years and 66⅔% thereafter. H.R. 4332 authorizes $20 million annually for fiscal years 1972 through 1976 with the Federal government paying up to 50% of all costs.

The lower amount provided by H.R. 4332 is consistent with its selective identification of priorities. We feel that Federal dollars are better spent by concentrating efforts on the areas where the needs are greatest and the objectives more specific. Several States are already moving toward some of the objectives of H.R. 4332. Today all States have some form of planning department as compared with only 39 in 1960. A number of States have laws meeting some of the requirements of the Act and the number is increasing. Therefore we feel that the amount of funds and the sharing ratio provided in H.R. 4332 for grant assistance is reasonable.

FEDERAL PROGRAMS RELATION TO STATE PLANS

Neither bill includes Federal land within the State plans. Both bills require that except in case of overriding national interest, Federal programs and federally assisted programs shall be "in accordance" (H.R. 2173) or "consistent" (H.R. 4332) with approved State plans.

H.R. 4332 provides that where a State has no approved plan any major Federal action proposed after December 31, 1974 which would significantly affect the use of non-federal lands must be preceded by a public hearing at least 180 days in advance, to determine the effect of the action on land use. We feel that this is preferable to the provision of H.R. 2173 which, if a State fails to submit a Statewide land use plan within 5 years after the issuance of regulations by the council, would prohibit any new federally supported action which "may have a substantial adverse environmental impact or which would or would tend to irreversibly or irretrievably commit substantial land or water resources" in the State unless the President intervened for the sake of public health, safety or welfare. It is unclear what would constitute a plan for the purpose of this provision.

Accordingly, for the reasons cited above, we recommend that H.R. 4332 be enacted in lieu of H.R. 2173.

The Office of Management and Budget has advised that there is no objection to the presentation of this report and that enactment of H.R. 4332 is in accord with the program of the President.

Sincerely yours,

ROGERS C. B. MORTON,
Secretary of the Interior.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., September 10, 1971.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives.

DEAR MR. CHAIRMAN: This is in response to your request for a report on H.R. 2173, H.R. 7804, and H.R. 8503, bills "To amend the Water Resources Planning Act (79 Stat. 244) to include provision for a national land use policy by broadening the authority of the Water Resources Council and river basin commissions and by providing financial assistance for statewide land use planning."

The President's Environmental Message to Congress, dated February 8, 1971, proposed legislation to establish a National Land Use Policy, which will encourage the States, in cooperation with local governments, to plan for and regulate major developments affecting growth and the use of critical land areas. He proposed that this be done by establishing methods for protecting land of critical environmental concern, methods for controlling large-scale development, and improving use of lands around key facilities and new communities. This proposal was submitted to Congress by the Secretary of the Interior and introduced on February 17, 1971, as H.R. 4332.

This Department has reviewed H.R. 2173, H.R. 7804, H.R. 8503, and the Administration's bill H.R. 4332, all proposing establishment of a National Land Use Policy. While we concur with many of the objectives of H.R. 2173, H.R. 7804, and H.R. 8503, we recommend enactment of H.R. 4332 since it is specifically oriented to present critical land use problems.

The Office of Management and Budget advises that there is no objection to the presentation of this report and that enactment of H.R. 4332 would be in accord with the program of the President.

Sincerely,

DON PAARLBERG,
Director, Agricultural Economics.

THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT,
Washington, D.C., September 13, 1971.

Subject: H.R. 2173, 92d Congress (Meeds); H.R. 7804, 92d Congress (Udall); H.R. 8503, 92d Congress (Reid).

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for our views on several bills—H.R. 2173 (Meeds), H.R. 7804 (Udall), and

H.R. 8503 (Reid)—each of which would amend the Water Resources Planning Act to include a provision for a national land use policy by broadening the authority of the Water Resources Council and river basin commissions and by providing financial assistance for statewide land use planning.

This Department is most sympathetic to the basic purpose of these bills. However, we believe that the bills have a number of major drawbacks. These include an approach to land use controls which appears to underestimate the technical and administrative complexity of what the States would be asked to do and which does not adequately provide for the continuing, important role that should be played by local governments and areawide agencies in which those governments participate.

We believe that the appropriate Federal legislation for supporting new State land use programs is that which has been proposed by the President and which is incorporated in H.R. 4332. Accordingly, we strongly recommend enactment of H.R. 4332 instead of the subject bills. I am enclosing a statement which explains in greater detail some of the advantages of H.R. 4332.[1]

The Office of Management and Budget has informed us that it has no objection to the submission of this report and that enactment of H.R. 4332 would be in accord with the program of the President.

Sincerely,

GEORGE ROMNEY.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., September 13, 1971.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives.

DEAR MR. CHAIRMAN: Attached is a statement of the Department of Agriculture concerning a National Land Use Policy. This statement is submitted for inclusion in the record of the hearings to be held by your Environment Subcommittee, September 13, 1971.

The Office of Management and Budget advises that there is no objection to the presentation of this statement.

Sincerely,

DON PAARLBERG.

Attachment:

DEPARTMENT OF AGRICULTURE SUBMITTED BY DON PAARLBERG, DIRECTOR, AGRICULTURAL ECONOMICS

Legislation that would help establish National Land Use Policy is of substantial interest not only to the U.S. Department of Agriculture but also to landowners, operators and others engaged in land management. Workable land use policy for the Nation can help guide community development and improvement throughout rural America.

Historically, much of the work of the Department of Agriculture has focused on land use. The focus has broadened from a concern for agriculture and forest production to encompass competing land uses for

new towns, urban and suburban expansion, new industry, transportation facilities, wildlife and recreation and esthetic enjoyment—all elements of a more satisfactory total environment for all people.

On February 11, 1971, the Secretary of the Interior sent a draft of a proposed bill to the Congress which was subsequently introduced as H.R. 4332. We support the Administration's proposal, which deals with land use problems of high priority. Some of its outstanding features are—

it identifies and concentrates on critical lands,

it is directly concerned with alleviating environmental problems,

it acknowledges and gives support to State responsibility for land use regulation,

it provides Federal assistance to States to exercise their responsibility for land use planning, and

it acknowledges the need to coordinate Federal programs affecting land use with States planning and regulatory efforts.

We would like to share with you some of the ways in which problems in Rural America are related to the need for a workable national land use policy.

The Department of Agriculture's broadened missions have come to include—in addition to the identification, retention and protection of land for efficient agricultural production and forestry—such new missions as new approaches to the use of land for recreational and esthetic purposes, especially those lands near population centers; land use to stimulate selected small and medium size growth centers (rural community development); intensification of our efforts (1) to determine the capacity and limitations of different types of land to absorb wastes and (2) to design systems for converting many wastes into beneficial uses by incorporating them into the soil; and management of forest land under the multiple-use concept.

This Nation has become increasingly aware of the importance of land for living space and for the services land provides in addition to its traditional function of basic production in agriculture and other extractive industries.

One aspect of land use policy that is of particular interest to the Department of Agriculture is the competition for land use at the urban-rural boundary. This competition is important because the rural areas around our major cities include some of our most productive and valuable agricultural lands, including forested areas and open spaces so important to large centers of population. The 445 counties designated as Standard Metropolitan Statistical Areas include about 69 percent of the population in the 48 contiguous States, and about 17 percent of all farms. The counties include about 13 percent of both total land area and cropland. Nearly 23 percent of the value of total farm products sold in 1964 came from these counties. The SMSA counties also have a little more than their proportionate share of the better agricultural land—land in capability classes I through III. Today, agriculture appears to be flourishing in these urbanizing counties, but it is beset by some problems peculiar to rural areas near major cities—high land values and rising taxes, air pollution damages to crops, and restriction on agricultural production and operations. A companion problem is that our growing urban areas need open space to provide respite and visual relief.

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The Administration's bill provides for the protection and wise use of critical land areas and control of key facilities to be placed thereon and merits strong support of leaders from rural and urban areas alike.

The second annual report to the President from the Council on Environmental Quality said, "Land use decisions are an important determinant of environmental quality. Although planning and control of land use are largely the responsibility of local governments, the impact of these activities often reach statewide, regionwide or nationwide. Purely local regulation often frustrates environmental quality objectives."

While State land use policy and planning laws can no doubt be improved, we must not lose sight of the fact that lack of authority is not the major constraining factor. This is especially true in rural areas where the lack of experience, lack of public support, or lack of regional concern to fully use existing authority seem to prevail.

ELEMENTS OF A NATIONAL LAND USE POLICY

It is basic to national land use policy that it identify broad objectives to guide major new development and to redirect use of programs and capabilities now existing in the Federal agencies. Other functions of land use policy are: (1) to create institutional arrangements for carrying out the policy and coordinating Federal programs that directly affect land use; (2) to provide physical and social criteria for planning land use; and (3) to initiate exchange and flow of ideas, information, and assistance between local people and land use planners at all levels of government. Capabilities that the Department of Agriculture has to offer in carrying out these functions will be discussed later.

Above all in importance are the objectives of policy. National Land Use Policy for what purpose? Perhaps the most urgent demand on our land resource base today, and one which will remain important for some time to come, is the imbalance living space. Other major issues concerning the Nation's land resources arise from time to time, including land used for agriculture and the ways in which returns from its use are distributed among those who work on the land. National land use policy can provide a means for systematically examining land use issues as a basis for designating policy and program objectives. Once the objectives have been argeed upon, there are many ways to implement plans and programs. And there is much experience with land use planning—mostly by local governments. Many of the techniques for land use planning can be used in implementing a national policy, but new State legislation and constitutional change also will be required before the States can become truly effective in carrying out land use planning.

HELPING CARRY OUT NATIONAL LAND USE POLICY

The Department's approach to conservation, development, and use of natural resources seeks a balance between resource use and environmental considerations. For purposes of discussion and to demonstrate how the Department can help in designing and implementing national use policy, we divide the program pertaining to land resources into three groups. We will discuss each group in turn.

They are:

Accumulated data, analyses and staff analytical competence gained from physical, biological and social science research directly concerned with natural resources;

Competence in natural resource conservation and development accumulated over many years and in many programs; and

A nationwide system for delivery of technical services for both planning and implementation, and research findings based on this experience.

NATURAL RESOURCE DATA AND ANALYSES

Section 108(b) of H.R. 4332, the Administration's proposal, provides that "Federal agencies with data or expertise relative to land use and conservation shall take appropriate measures, subject to appropriate arrangements for payment or reimbursement, to make such data or expertise available to States for use in preparation, implementation, and revision of State land use programs." The Department of Agriculture has extensive experience in the collection and dissemination of land use data and information. We would expect to make this information available to both the Department of the Interior and the States in implementing a national land use policy. The following kinds of data and analyses pertaining to land use are now available within the Department of Agriculture.

1. The National Cooperative Soil Survey provides general information about soil and related features important to land use. It also provides information in soil surveys about the kinds of soil, where they are located, and how they can be used. The information in these reports is broadly useful for both non-agricultural and agricultural purposes. Such reports have been prepared for one-third of the land for which such surveys are needed.

2. The National Conservation Needs Inventory includes data on a county basis about the capability of the Nation's agricultural land, by class and subclass; land use in 1967; conservation treatment needed on land in each use, and the small watershed projects which are needed.

3. The aerial photographic mapping program covers the major cropland and forest areas of the country and provides useful data for rural and urban areas alike. As land use patterns change, the areas are reflown at intervals of about six years. Each year over 400,000 square miles of replacement coverage is contracted for.

4. The nationwide forest survey provides information periodically on the extent and condition of forest lands, the amount and kind of timber growing on these lands, the rate of forest growth and depletion, the amount of timber cut, and probable future trends in timber requirements.

5. The nationwide forest insect and disease detection and evaluation program, which covers Federal, State and private lands, provides impact information on 720,000,000 acres of forest land.

6. The Department has a major data-gathering program which compiles annual data on acreages of crops produced and average yields, and other attributes of farm production and the rural economy programs.

7. A systematic and continuing inventory of agricultural land and water uses for the total land area of the United States is the responsibility of the Department. The land use inventory is an organized project for collecting land use statistics not available except in scattered sources or unpublished sources of limited accessibility in files of public agencies. The inventory provides information beginning in 1920 on the major uses of land, total cropland, pasture and grazing land, land in farms and not in farms, and land in very special use, such as urban and built-up, and transportation uses.

Data have been maintained on land irrigated and land drained at periodic intervals since 1920. Data are compiled from secondary sources on water supplies and uses, and on intracensal estimates of irrigated land and made annually.

8. The Department makes national and interregional land use and production projections, based on its information about soils, land use, conservation needs, cropping patterns, projected crop yields for various kinds of soils, expanded markets for agricultural and forest products, with assumptions about foreign markets and population growth and distribution. These projections have potential use also for study of the land use implications of such important issues as population redistribution, expanded agricultural exports, major resource development investments or restrictions on agricultural imputs.

Section 108(b) of H.R. 4332 further would authorize this Department to make available to interested State and Local Governments the expertise of its extensive field organization.

1. The Department's forestry activities are carried out with the objective of promoting or achieving a pattern of resource uses and protection that will best meet present and future needs. They promote high quality, multiple-use management on both Federal and non-Federal lands. One-third of the Nation's land area is forested land use, and management planning is carried out through a number of direct and cooperative State-Federal programs.

2. The Conservation Operations and Rural Environmental Assistance Program provide technical and cost-sharing assistance to farm and ranch owners and operators in preparing and applying conservation plans for the use and management of their lands. Program practices—the conversion of cropland to permanent vegetative cover, terracing, tree planting, water development and wildlife plantings—encourage certain uses. The Department's allotment and set aside program to manage the amount of land resources devoted to commodities also influences the way land is used.

3. The Small Watershed Program provides technical and financial assistance to local organizations in planning and installing works of improvement for flood prevention and the conservation, development, utilization and disposal of water in watersheds of 250,000 acres or less. As of August 1, 1971, applications for planning assistance had been received by the Department from local organizations in 2,931 watersheds covering about 226 million acres. Plans authorized and approved for operations involve watersheds covering more than 65 million acres. The works of improvement in these watersheds permit changes and improvements in land use and enhancement of the environment for people.

4. Resource Conservation and Development projects operate in multicounty areas. In each area the type of resources available are analyzed and possible alternative uses of land and desirable changes in land use to improve economic conditions are suggested. The 78 projects now include 296,604,000 acres in 498 counties and in 45 States. Projects measures to include the location of processing facilities and other investments in the area can greatly influence land use as well as economic opportunities in the area.

5. The Department provides financial assistance in the form of loans or grants to public agencies and private non-profit corporations for the following developments which significantly affect land use in rural areas and which would be coordinated with and reinforce State land use programs: (1) Rural housing loans, farm ownership and operating loans; (2) comprehensive area water and sewer plans; (3) community water and waste disposal systems; (4) soil and water development projects; (5) the local share of development costs of certain watershed and resource conservation and development projects; and (6) community recreation facilities and group housing.

RELATION TO REORGANIZATION PROPOSALS

Under the President's proposal to establish a Department of Natural Resources (H.R. 6959), one cabinet-level department would combine for the first time the major Federal activities most directly concerned with land use. A major part of the functions, personnel, and funds of the Department of Agriculture would be transferred to that new department, including—

the Forest Service;

the Soil Conservation Service;

the Soil and Water Conservation Research Division of the Agricultural Research Service; and

the Natural Resource Economics Division of the Economic Research Service.

The Department of Natural Resources would be the Department responsible for administering National Land Use Policy Bill. While DNR would contain major functions of USDA, other agricultural programs vitally affecting land use would not be transferred to DNR—such as the agricultural commodity programs, the Rural Environmental Assistance Program, rural community development programs, and many others. Consequently with or without the establishment of a Department of Natural Resources, there would continue to be a need for close and effective working relationships between the department administering National Land Use Policy and the other Federal departments concerned with land use.

SUMMARY

USDA and its cooperators have a long history of interest and expertise in this field. We have an organization of skilled people who can and will play an important role in assisting State and local governments in land use and resource planning. We believe Agriculture will play an important role in the success of National Land Use Policy envisioned in H.R. 4332.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., February 8, 1972.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: On February 11, 1971, I forwarded to Congress on behalf of the Administration a proposed "National Land Use Policy Act of 1971". Hearings on that bill, H.R. 5504 and other similar legislation, have been held before your Committee, and we understand the Committee is in the process of preparing its report.

I cannot overly stress the importance of this legislation. Land is our most basic and most abused resource. As the President said in his environmental message last year, "The use of our land not only affects the natural environment but shapes the pattern of our daily lives. Unfortunately, the sensible use of our land is often thwarted by the inability of the many competing and overlapping local units of government to control land use decisions which have regional significance." The Administration's proposal represents a crucial step towards reshaping the patterns of land use in closer harmony with wise environmental concepts.

During the past year this topic has received a great deal of public attention. The Council on Environmental Quality released in December, 1971, a study of the latest developments in the land use laws of several States. The Congressional hearings stimulated useful public debate.

In his environmental message to Congress today, the President reiterated his concern with abuse of our land resources and stressed the need for early action to promote responsible land use practices. Because of the importance he attaches to that topic, and as a result of the public attention which it has received, the President proposed two amendments to broaden and strengthen the Administration's proposal. The first would clarify the scope of State land use regulatory programs explicitly to include control over the siting of such key facilities as major airports, highways and recreation facilities. The second would provide sanctions against any State which failed to implement an adequate land use program.

The legislation submitted last year provided in part that to qualify for Federal funding the State land use program must include a method for exercising control over areas impacted by key facilities. Key facilities were defined as public facilities which tend to induce development and urbanization of more than local impact including major airports, highways and recreation facilities. Decisions as to the actual siting of such key facilities can, of course, dictate the uses to which the surrounding lands subsequently are put. Thus, we believe it desirable clearly to require that the States' land use programs include methods for exercising control over key facility site location, as well as major improvements and access features of such facilities.

Under our proposal of last year, the principal incentive for States to develop land use programs was the Federal matching grants for program development and program management. We now are persuaded that economic sanctions as well as grants should be provided

to assure State action. Recognizing the significant effect which key facilities can have on broad land use patterns, the sanctions which we propose would reduce the amount of financial assistance under those Federal programs with the most far-reaching effect upon land use—airport and highway construction and recreation facilities. The proposed reductions would apply to any State which has not developed an adequate land use program by June 30, 1975. Any funds withheld from States which have not implemented adequate land use programs would be diverted to States complying with the National Land Use Policy Act, since complying States would be better able to make sound decisions with respect to activities with major land use impacts.

Attached to this letter is proposed language which would accomplish the objectives set forth above. In addition, in view of the passage of time since the proposal was introduced, the dates contained in certain sections (listed on the attachment) must be revised.

I urge that the Congress adopt these recommended amendments and act promptly to complete its consideration of this vitally important legislation.

The Office of Management and Budget has advised that enactment of H.R. 5504, with the amendments recommended herein, would be in accord with the program of the President.

Sincerely yours,

ROGERS C. B. MORTON,
Secretary of the Interior.

Enclosure.

ATTACHMENT

1. Amend section 104(a)(3) by adding: "including a method for exercising State control over the site location and the location of major improvements and major access features of key facilities."

2. Amend section 107 to add "(a)" before the word "Where" at the beginning of the paragraph and to add the following new subsections:

"(b) Section 15 of the Airport and Airway Development Act (P.L. 91-258, 84 Stat. 227) is amended by adding the following new subsection:

" '(d) Any State which has not been found eligible for a management grant under section 104 of the National Land Use Policy Act by June 30, 1975, shall suffer a reduction of 7% of its entitlement to Federal funds apportioned for airport development pursuant to paragraphs (A) and (B) of subsection (a)(1) and paragraphs (A) and (B) of subsection (a)(2) of this section, in fiscal year 1976. If that State has not been found eligible by June 30, 1976, it shall suffer a reduction of 14% in fiscal year 1977, and if not found eligible by June 30, 1977, shall suffer a reduction of 21% in fiscal year 1978. Any funds so withheld shall be included in the aggregate of airport and airway development funds and shall be made available to States found eligible for financial assistance under section 104 of the National Land Use Policy Act according to the criteria prescribed for the apportionment of such funds, excluding for purposes of computation any State or States found ineligible for financial assistance under section 104 of the National Land Use Policy Act.'

"(c)(1) Section 104, title 23 of the United States Code is amended by adding the following subsection:

" '(f) Any State which has not been found eligible for a management grant under section 104 of the National Land Use Policy Act by June 30, 1975, shall suffer a reduction of 7% of its entitlement to Federal-aid highway funds exclusive of planning and research which would otherwise be apportioned to such State in fiscal year 1976. If that State has not been found eligible by June 30, 1976, it shall suffer a reduction of 14% in fiscal year 1977, and if not found eligible by June 30, 1977, shall suffer a reduction of 21% in fiscal year 1978. Any funds so withheld shall be included in the aggregate of Federal-aid highway funds and shall be made available to States found eligible for assistance under section 104 of the National Land Use Policy Act according to criteria prescribed for the apportionment of Federal-aid highway funds, excluding for purposes of computation any State or States found ineligible for financial assistance under section 104 of the National Land Use Policy Act.'

"(c)(2) Section 109(f), title 23 of the United States Code is amended by deleting 'or control of' in the first sentence.

"(d) Subsection 5(b) of the Land and Water Conservation Fund Act of 1965 (P.L. 88–578, 78 Stat. 897) is amended by adding after the second paragraph the following paragraph:

" 'Any State which has not been found eligible for a management grant under section 104 of the National Land Use Policy Act by June 30, 1975, shall suffer a reduction of 7% of its entitlement under paragraphs (1) and (2) of this subsection in fiscal year 1976. If that State has not been found eligible by June 30, 1976, it shall suffer a reduction of 14% in fiscal year 1977, and if not found eligible by June 30, 1977, shall suffer a reduction of 21% in fiscal year 1978. Any funds so withheld shall be included in the aggregate of land and water conservation funds and shall be made available according to the criteria prescribed for the apportionment of such funds, excluding for purposes of computation any State or States found ineligible for financial assistance under section 104 of the National Land Use Policy Act.' "

3. Change short title to read: "National Land Use Policy Act of 1972".

4. Amend sections 106(b) and 107 by changing "1974" to "1975".

5. Amend section 112 to change "1972 through 1976" to read "1973 through 1977".

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECTION 15 OF THE AIRPORT AND AIRWAY DEVELOPMENT ACT OF 1970

§ 15. Distribution of Funds; State Apportionment.

(a) * * *

* * * * * * *

(d) Any State which is not eligible for a grant under section 201 of the National Land Policy, Planning, and Management Act of 1972, on July 1, 1976, or as of that date is making no substantial progress toward developing a comprehensive land use planning process (as defined under section 201(c) of such Act), shall suffer a reduction of 7 per centum of its entitlement to Federal funds apportioned for airport development pursuant to paragraphs (A) and (B) of subsection (a)(1) and paragraphs (A) and (B) of subsection (a)(2) of this section, in the fiscal year ending June 30, 1977. If that State is not eligible on July 1, 1977, or as of that date is making no such progress, it shall suffer a reduction of 14 per centum in the fiscal year ending June 30, 1978, and if it is not eligible on July 1, 1978, or as of that date is making no such progress, such State shall suffer a reduction of 21 per centum in the fiscal year ending June 30, 1979. Any funds so withheld shall be included in the aggregate of airport and airway development funds and shall be made available to States found eligible for financial assistance under section 201 of such Act according to the criteria prescribed for the apportionment of such funds, excluding for purposes of computation any State or States found ineligible for financial assistance under section 201 of such Act.

* * * * * * *

TITLE 23.—HIGHWAYS

§ 104. Apportionment.

(a) * * *

* * * * * * *

(g) Any State which is not eligible for a grant under section 201 of the National Land Policy, Planning, and Management Act of 1972, on July 1, 1976, or as of that date is making no substantial progress toward developing a comprehensive land use planning process (as defined in section 201(c) of such Act), shall suffer a reduction of 7 per centum of its entitlement to Federal-aid highway funds exclusive of planning and research which would otherwise be apportioned to such State in the fiscal year ending June 30, 1977. If that State is not eligible on July 1, 1977, or as of that date is making no such progress, it shall suffer a reduction of 14 per centum in the fiscal year ending June 30, 1978, and if it is not eligible on July 1, 1978, or as of that date is making no such progress, such State shall suffer a reduction of 21 per centum in the fiscal year ending June 30, 1979. Any funds so withheld shall be included in the aggregate of Federal-aid highway funds and shall be made available to States found eligible for assistance under section 201 of such Act according to criteria prescribed for the apportionment of Federal-aid highway funds, excluding for purposes of computation any State or States found ineligible for financial assistance under section 201 of such Act.

* * * * * * *

§ 109. Standards.

(a) * * *

* * * * * * *

(f) The Secretary shall not, as a condition precedent to his approval under section 106 of this title, require any State to acquire title to [, or control of], any marginal land along the proposed highway in addition

to that reasonably necessary for road surfaces, median strips, gutters, ditches, and side slopes, and of sufficient width to provide service roads for adjacent property to permit safe access at controlled locations in order to expedite traffic, promote safety, and minimize roadside parking.

* * * * * * *

Subsection 5(b) of the Land and Water Conservation Fund Act of 1965

(b) APPORTIONMENT AMONG STATES; NOTIFICATION.—Sums appropriated and available for State purposes for each fiscal year shall be apportioned among the several States by the Secretary, whose determination shall be final, in accordance with the following formula:

(1) two-fifths shall be apportioned equally among the several States; and

(2) three-fifths shall be apportioned on the basis of need to individual States by the Secretary in such amounts as in his judgment will best accomplish the purposes of this Act. The determination of need shall include among other things a consideration of the proportion which the population of each State bears to the total population of the United States and of the use of outdoor recreation resources of individual States by persons from outside the State as well as a consideration of the Federal resources and programs in the particular States.

The total allocation to an individual State under paragraphs (1) and (2) of this subsection shall not exceed 7 per centum of the total amount allocated to the several States in any one year.

Any State which is not eligible for a grant under section 201 of the National Land Policy, Planning, and Management Act of 1972, on July 1, 1976, or as of that date is making no substantial progress toward developing a comprehensive land use planning process (as defined in section 201(c) of such Act) shall suffer a reduction of 7 per centum of its entitlement under paragraphs (1) and (2) of this subsection in the fiscal year ending June 30, 1977. If that State is not eligible on July 1, 1977, or as of that date is making no such progress, it shall suffer a reduction of 14 per centum in the fiscal year ending June 30, 1978, and if it is not eligible on July 1, 1978, or as of that date is making no such progress, such State shall suffer a reduction of 21 per centum in the fiscal year ending June 30, 1979. Any funds so withheld shall be included in the aggregate of land and water conservation funds and shall be made available according to the criteria prescribed for the apportionment of such funds, excluding for purposes of computation any State found ineligible for financial assistance under section 201 of such Act.

The Secretary shall notify each State of its apportionments; and the amounts thereof shall be available thereafter for payment to such State for planning, acquisition, or development projects as hereafter prescribed. Any amount of any apportionment that has not been paid or obligated by the Secretary during the fiscal year in which such notification is given and for two fiscal years thereafter shall be reapportioned by the Secretary in accordance with paragraph (2) of this subsection.

The District of Columbia, Puerto Rico, the Virgin Islands, Guam, and American Samoa shall be treated as States for the purposes of this

title, except for the purpose of paragraph (1) of this subsection. Their population also shall be included as a part of the total population in computing the apportionment under paragraph (2) of this subsection.

* * * * * * *

1.—HOMESTEAD LAWS

Revised Statutes of the United States

* * * * * * *

[Sec. 2288. Any person who has already settled or hereafter may settle on the public lands, either by pre-emption, or by virtue of the homestead law or any amendments thereto, shall have the right to transfer, by warranty against his own acts, any portion of his pre-emption or homestead for church, cemetery, or school purposes, or for the right of way of railroads across such pre-emption or homestead, and the transfer for such public purposes shall in no way vitiate the right to complete and perfect the title to their pre-emptions or homesteads.

[Sec. 2289. Every person who is the head of a family, or who has arrived at the age of twenty-one years, and is a citizen of the United States, or who has filed his declaration of intention to become such, as required by the naturalization laws, shall be entitled to enter one quarter-section or a less quantity of unappropriated public lands, upon which such person may have filed a pre-emption claim, or which may, at the time the application is made, be subject to pre-emption at one dollar and twenty-five cents per acre; or eighty acres or less of such unappropriated lands, at two dollars and fifty cents per acre, to be located in a body, in conformity to the legal subdivisions of the public lands, and after the same have been surveyed. And every person owning and residing on land may, under the provisions of this section, enter other land lying contiguous to his land, which shall not, with the land so already owned and occupied, exceed in the aggregate one hundred and sixty acres.

[Sec. 2290. The person applying for the benefit of the preceding section shall, upon application to the register of the land-office in which he is about to make such entry, make affidavit before the register or receiver that he is the head of a family, or is twenty-one years or more of age, or has performed service in the Army or Navy of the United States, and that such application is made for his exclusive use and benefit, and that his entry is made for the purpose of actual settlement and cultivation, and not either directly or indirectly for the use or benefit of any other person; and upon filing such affidavit with the register or receiver, on payment of five dollars when the entry is of not more than eighty acres, and on payment of ten dollars when the entry is for more than eighty acres, he shall thereupon be permitted to enter the amount of land specified.

[Sec. 2291. No certificate, however, shall be given, or patent issued therefor, until the expiration of five years from the date of such entry; and if at the expiration of such time, or at any time within two years thereafter, the person making such entry; or if he be dead, his widow; or in case of her death, his heirs or devisee; or in case of a widow making such entry, her heirs or devisee, in case of her death, proves by two credible witnesses that he, she, or they have resided

upon or cultivated the same for the term of five years immediately succeeding the time of filing the affidavit, and makes affidavit that no part of such land has been alienated, except as provided in section twenty-two hundred and eighty-eight, and that he, she, or they will bear true allegiance to the Government of the United States; then, in such case, he, she, or they, if at that time citizens of the United States, shall be entitled to a patent, as in other cases provided by law.

[SEC. 2292. In case of the death of both father and mother, leaving an infant child or children under twenty-one years of age, the right and fee shall inure to the benefit of such infant child or children; and the executor, administrator, or guardian may, at any time within two years after the death of the surviving parent, and in accordance with the laws of the State in which such children, for the time being, have their domicile, sell the land for the benefit of such infants, but for no other purpose; and the purchaser shall acquire the absolute title by the purchase, and be entitled to a patent from the United States on the payment of the office-fees and sum of money above specified.

[SEC. 2293. In case of any person desirous of availing himself of the benefits of this chapter; but who, by reason of actual service in the military or naval service of the United States, is unable to do the personal preliminary acts at the district land-office which the preceding sections require; and whose family, or some member thereof, is residing on the land which he desires to enter, and upon which a bona-fide improvement and settlement have been made, such person may make the affidavit required by law before the officer commanding in the branch of the service in which the party is engaged, which affidavit shall be as binding in law, and with like penalties, as if taken before the register or receiver; and upon such affidavit being filed with the register by the wife or other representative of the party, the same shall become effective from the date of such filing, provided the application and affidavit are accompanied by the fee and commissions as required by law.

[SEC. 2294. In any case in which the applicant for the benefit of the homestead, and whose family or some member thereof, is residing on the land which he desires to enter, and upon which a bona-fide improvement and settlement have been made, is prevented, by reason of distance, bodily infirmity, or other good cause, from personal attendance at the district land-office, it may be lawful for him to make the affidavit required by law before the clerk of the court for the county in which the applicant is an actual resident, and to transmit the same, with the fee and commissions, to the register and receiver.

[SEC. 2295. The register of the land-office shall note all applications under the provisions of this chapter, on the tract-books and plats of his office, and keep a register of all such entries, and make return thereof to the General Land Office, together with the proof upon which they have been founded.

[SEC. 2296. No lands acquired under the provisions of this chapter shall in any event become liable to the satisfaction of any debt contracted prior to the issuing of the patent therefor.

[SEC. 2297. If, at any time after the filing of the affidavit, as required in section twenty-two hundred and ninety, and before the expiration of the five years mentioned in section twenty-two hundred and ninety-one, it is proved, after due notice to the settler, to the

satisfaction of the register of the land office, that the person having filed such affidavit has actually changed his residence, or abandoned the land for more than six months at any time, then and in that event the land so entered shall revert to the Government.

[SEC. 2298. No person shall be permitted to acquire title to more than one quarter-section under the provisions of this chapter.]

* * * * * * *

[SEC. 2300. No person who has served, or may hereafter serve, for a period not less than fourteen days in the Army or Navy of the United States, either regular or volunteer, under the laws thereof, during the existence of an actual war, domestic or foreign, shall be deprived of the benefits of this chapter on account of not having attained the age of twenty-one years.

[SEC. 2301. Nothing in this chapter shall be so construed as to prevent any person who has availed himself of the benefits of section twenty-two hundred and eighty-nine, from paying the minimum price for the quantity of land so entered, at any time before the expiration of the five years, and obtaining a patent therefor from the Government, as in other cases directed by law, on making proof of settlement and cultivation as provided by law, granting pre-emption rights.

[SEC. 2302. No distinction shall be made in the construction or execution of this chapter, on account of race or color; nor shall any mineral lands be liable to entry and settlement under its provisions.]

* * * * * * *

[SEC. 2304. Every private soldier and officer who has served in the Army of the United States during the recent rebellion, for ninety days, and who was honorably discharged, and has remained loyal to the Government, including the troops mustered into the service of the United States by virtue of the third section of an act approved February thirteen, eighteen hundred and sixty-two, and every seaman, marine, and officer who has served in the Navy of the United States, or in the Marine Corps, during the rebellion, for ninety days, and who was honorably discharged, and has remained loyal to the Government, shall, on compliance with the provisions of this chapter, as hereinafter modified, be entitled to enter upon and receive patents for a quantity of public lands not exceeding one hundred and sixty acres, or one quarter-section, to be taken in compact form, according to legal subdivisions, including the alternate reserved sections of public lands along the line of any railroad or other public work, not otherwise reserved or appropriated, and other lands subject to entry under the homestead laws of the United States; but such homestead settler shall be allowed six months after locating his homestead, and filing his declaratory statement, within which to make his entry and commence his settlement and improvement.]

* * * * * * *

[SEC. 2311. The homestead secured, by virtue of the preceding section, shall not be subject to any tax, levy, or sale; nor shall it be sold, conveyed, mortgaged, or in any manner incumbered, except upon the decree of the district court of the United States, as provided in the following section.]

Act of March 3, 1875

* * * * * * *

Chapter 131

* * * * * * *

[SEC. 15. That any Indian born in the United States, who is the head of a family, or who has arrived at the age of twenty-one years, and who has abandoned, or may hereafter abandon, his tribal relations, shall, on making satisfactory proof of such abandonment, under rules to be prescribed by the Secretary of the Interior, be entitled to the benefits of the act entitled "An act to secure homesteads to actual settlers on the public domain," approved May twentieth, eighteen hundred and sixty-two, and the acts amendatory thereof, except that the provisions of the eighth section of the said act shall not be held to apply to entries made under this act: *Provided, however,* That the title to lands acquired by any Indian by virtue hereof shall not be subject to alienation or incumbrance, either by voluntary conveyance or the judgment, decree, or order of any court, and shall be and remain inalienable for a period of five years from the date of the patent issued therefor: *Provided,* That any such Indian shall be entitled to his distributive share of all annuities, tribal funds, lands, and other property, the same as though he had maintained his tribal relations; and any transfer, alienation, or incumbrance of any interest he may hold or claim by reason of his former tribal relations shall be void.]

Act of June 3, 1878

[AN ACT

[To provide for the publication of notices of contest under the homestead, pre-emption, and tree-culture laws of the United States.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the notices of contest now provided by law under the homestead, pre-emption, and tree-culture laws of the United States shall, after the passage of this act, be printed in some newspaper printed in the county where the land in contest lies; and if no newspaper be printed in such county, then in the newspaper printed in the county nearest to such land.]

Act of March 3, 1879

[AN ACT

[To grant additional rights to homestead settlers on public lands within railroad limits.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That from and after the passage of this act, the even sections within the limits of any grant of public

lands to any railroad company, or to any military road company, or to any State in aid of any railroad or military road, shall be open to settlers under the homestead laws to the extent of one hundred and sixty acres to each settler, and any person who has, under existing laws, taken a homestead on any even section within the limits of any railroad or military road land-grant, and who, by existing laws shall have been restricted to eighty acres, may enter under the homestead laws an additional eighty acres adjoining the land embraced in his original entry, if such additional land be subject to entry; or if such person so elect, he may surrender his entry to the United States for cancellation, and thereupon be entitled to enter lands under the homestead laws the same as if the surrendered entry had not been made. And any person so making additional entry of eighty acres, or new entry after the surrender and cancellation of his original entry, shall be permitted so to do without payment of fees and commissions; and the residence and cultivation of such person upon and of the land embraced in his original entry shall be considered residence and cultivation for the same length of time upon and of the land embraced in his additional or new entry, and shall be deducted from the five years' residence and cultivation required by law: *Provided*, That in no case shall patent issue upon an additional or new homestead entry under this act until the person has actually, and in conformity with the homestead laws, occupied, resided upon, and cultivated the land embraced therein at least one year.]

Act of March 3, 1879

[AN ACT

[To provide additional regulations for homestead and pre-emption entries of public lands.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That before final proof shall be submitted by any person claiming to enter agricultural lands under the laws providing for pre-emption or homestead entries, such person shall file with the register of the proper land-office a notice of his or her intention to make such proof, stating therein the description of lands to be entered, and the names of the witnesses by whom the necessary facts will be established.

[Upon the filing of such notice, the register shall publish a notice, that such application has been made once a week for the period of thirty days, in a newspaper to be by him designated as published nearest to such land, and he shall also post such notice in some conspicuous place in his office for the same period. Such notice shall contain the names of the witnesses as stated in the application. At the expiration of said period of thirty days, the claimant shall be entitled to make proof in the manner heretofore provided by law. The Secretary of the Interior shall make all necessary rules for giving effect to the foregoing provisions.]

Act of July 1, 1879

[AN ACT

[To grant additional rights to homestead settlers on public lands within railroad limits in the States of Missouri and Arkansas.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That from and after the passage of this act the odd sections within the limits of any grant of public lands to any railroad company in the States of Missouri and Arkansas, or to such States respectively, in aid of any railroad where the even sections have been granted to and received by any railroad company or by such states respectively in aid of any railroad shall be open to settlers under the homestead laws to the extent of one hundred and sixty acres to each settler; and any person who has under existing laws taken a homestead on any section within the limits of any railroad grant in said States, and who by existing laws shall have been restricted to eighty acres, may enter under the homestead laws an additional eighty acres adjoining the land embraced in his original entry, if such additional land be subject to entry; or if such person so elect, he may surrender his entry to the United States for cancellation, and thereupon be entitled to enter lands under the homestead laws the same as if the surrendered entry had not been made. And any person so making additional entry of eighty acres, or new entry after the cancellation of his original entry, shall be permitted to do so without payment of fees or commissions; and the residence of such person upon and cultivation of the land embraced in his original entry shall be considered residence and cultivation for the same length of time upon and of the land embraced in his additional or new entry, and shall be deducted from the five year's residence and cultivation required by law: *Provided,* That in no case shall patent issue upon an additional or new homestead entry under this act until the person has actually, and in conformity with the homestead laws, occupied, resided upon, and cultivated the land embraced therein at least one year.]

Act of July 1, 1879

* * * * * * *

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [That it shall be lawful for homestead and pre-emption settlers on the public lands, and in all cases where pre-emptions are authorized by law, where crops have been or may be destroyed or seriously injured by grasshoppers, to leave and be absent from said lands, under such rules and regulations, as to proof of the same, as the Commissioner of the General Land Office shall prescribe; but in no case shall such absence extend beyond one year continuously; and during such absence no adverse rights shall attach to said lands, such settlers being allowed to resume and perfect their settlement as though no such absence had occurred.]

SEC 2. That the time for making final proof and payment by pre-emptors whose crops shall have been destroyed or injured as aforesaid, may, in the discretion of the Commissioner of the General Land Office,

be extended for one year after the expiration of the term of absence provided for in the first section of this act; and all the rights and privileges extended by this act to homestead and pre-emption settlers shall apply to and include the settlers under an act entitled "An act to encourage the growth of timber on Western prairies" approved March third, eighteen hundred and seventy three, and the acts amendatory thereof.

Act of May 14, 1880

[AN ACT

[For the relief of settlers on public lands.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That when a pre-emption, homestead, or timber-culture claimant shall file a written relinquishment of his claim in the local land-office, the land covered by such claim shall be held as open to settlement and entry without further action on the part of the Commissioner of the General Land Office.

[SEC. 2. In all cases where any person has contested, paid the land-office fees, and procured the cancellation of any pre-emption, homestead, or timber-culture entry, he shall be notified by the register of the land-office of the district in which such land is situated of such cancellation, and shall be allowed thirty days from date of such notice to enter said lands: *Provided*, That said register shall be entitled to a fee of one dollar for the giving of such notice, to be paid by the contestant, and not to be reported.

[SEC. 3. That any settler who has settled, or who shall hereafter settle, on any of the public lands of the United States, whether surveyed or unsurveyed, with the intention of claiming the same under the homestead laws, shall be allowed the same time to file his homestead application and perfect his original entry in the United States land-office as is now allowed to settlers under the pre-emption laws to put their claims on record, and his right shall relate back to the date of settlement, the same as if he settled under the pre-emption laws.]

Act of June 8, 1880

[AN ACT

[To provide for issuing patents for public lands claimed under the pre-emption and homestead laws in cases where the claimants have become insane.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That in all cases in which parties who regularly initiated claims to public lands as settlers thereon according to the provisions of the pre-emption or homestead laws, have become insane or shall hereafter become insane before the expiration of the time during which their residence, cultivation, or improvement of the land claimed by them is required by law to be continued in order to entitle them to make the proper proof and perfect their claims, it shall be lawful for the required proof and payment to be made for their benefit by any person who may be legally authorized to act for them during

their disability, and thereupon their claims shall be confirmed and patented, provided it shall be shown by proof satisfactory to the Commissioner of the General Land Office that the parties complied in good faith with the legal requirements up to the time of their becoming insane, and the requirement in homestead entries of an affidavit of allegiance by the applicant in certain cases as a prerequisite to the issuing of the patents shall be dispensed with so far as regards such insane parties.]

Act of June 16, 1880

[AN ACT

[For the relief of certain settlers on the public lands, and to provide for the repayment of certain fees, purchase money and commissions paid on void entries of public lands.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That in all cases where it shall, upon due proof being made, appear to the satisfaction of the Secretary of the Interior that innocent parties have paid the fees and commissions and excess payments required upon the location of claims under the act entitled "An act to amend an act entitled 'An act to enable honorably discharged soldiers and sailors, their widows and orphan children, to acquire homesteads on the public lands of the United States', and amendments thereto", approved March third eighteen hundred and seventy-three, and now incorporated in section twenty-three hundred and six of the Revised Statutes of the United States, which said claims were, after such location, found to be fraudulent and void, and the entries or locations made thereon canceled, the Secretary of the Interior is authorized to repay to such innocent parties the fees and commissions, and excess payments paid by them, upon the surrender of the receipts issued therefor by the receivers of public moneys, out of any money in the Treasury not otherwise appropriated, and shall be payable out of the appropriation to refund purchase-money on lands erroneously sold by the United States.

[SEC. 2. In all cases where homestead or timber-culture or desert-land entries or other entries of public lands have heretofore or shall hereafter be canceled for conflict, or where, from any cause, the entry has been erroneously allowed and cannot be confirmed, the Secretary of the Interior shall cause to be repaid to the person who made such entry, or to his heirs or assigns, the fees and commissions, amount of purchase money, and excesses paid upon the same upon the surrender of the duplicate receipt and the execution of a proper relinquishment of all claims to said land, whenever such entry shall have been duly canceled by the Commissioner of the General Land Office, and in all cases where parties have paid double-minimum price for land which has afterwards been found not to be within the limits of a railroad land grant, the excess of one dollar and twenty-five cents per acre shall in like manner be repaid to the purchaser thereof, or to his heirs or assigns.

[SEC. 3. The Secretary of the Interior is authorized to make the payments herein provided for, out of any money in the Treasury not otherwise appropriated.

[SEC. 4. The Commissioner of the General Land Office shall make all necessary rules, and issue all necessary instructions, to carry the provisions of this act into effect; and for the repayment of the purchase money and fees herein provided for the Secretary of the Interior shall draw his warrant on the Treasury and the same shall be paid without regard to the date of the cancellation of the entries.]

Section 1 of the Act of July 4, 1884

Section 1

* * * * * * *

[That such Indians as may now be located on public lands, or as may, under the direction of the Secretary of the Interior, or otherwise, hereafter, so locate may avail themselves of the provisions of the homestead laws as fully and to the same extent as may now be done by citizens of the United States; and to aid such Indians in making selections of homesteads and the necessary proofs at the proper land offices, one thousand dollars, or so much thereof as may be necessary, is hereby appropriated; but no fees or commissions shall be charged on account of said entries or proofs. All patents therefor shall be of the legal effect, and declare that the United States does and will hold the land thus entered for the period of twenty-five years, in trust for the sole use and benefit of the Indian by whom such entry shall have been made, or, in case of his decease, of his widow and heirs according to the laws of the State or Territory where such land is located, and that at the expiration of said period the United States will convey the same by patent to said Indian, or his widow and heirs as aforesaid, in fee, discharged of said trust and free of all charge or incumbrance whatsoever.]

* * * * * * *

Act of May 6, 1886

[AN ACT

[To protect homestead settlers within railway limits and for other purposes.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That all homestead settlers on public lands within the railway limits restricted to less than one hundred and sixty acres of land, who have heretofore made or may hereafter make the additional entry allowed either by the act approved March third, eighteen hundred and seventy-nine, or the act approved July first, eighteen hundred and seventy-nine, after having made final proof of settlement and cultivation under the original entry, shall be entitled to have the lands covered by the additional entry patented without any further cost or proof of settlement and cultivation.]

Act of March 2, 1889

* * * * * * *

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [That from and after the passage of this act no public lands of the United States, except those in the State of Missouri shall be subject to private entry.]

SEC. 2. That any person who has not heretofore perfected title to a tract of land of which he has made entry under the homestead law, may make a homestead entry of not exceeding one-quarter section of public land subject to such entry, such previous filing or entry to the contrary notwithstanding; but this right shall not apply to persons who perfect title to lands under the pre-emption or homestead laws already initiated: *Provided,* That all pre-emption settlers upon the public lands whose claims have been initiated prior to the passage of this act may change such entries to homestead entries and proceed to perfect their titles to their respective claims under the homestead law notwithstanding they may have heretofore had the benefit of such law, but such settlers who perfect title to such claims under the homestead law shall not thereafter be entitled to enter other lands under the pre-emption or homestead laws of the United States.

[SEC. 3. That whenever it shall be made to appear to the register and receiver of any public land office, under such regulations as the Secretary of the Interior may prescribe, that any settler upon the public domain under existing law is unable by reason of a total or partial destruction or failure of crops, sickness, or other unavoidable casualty, to secure a support for himself, herself, or those dependent upon him or her upon the lands settled upon, then such register and receiver may grant to such settler a leave of absence from the claim upon which he or she has filed for a period not exceeding one year at any one time, and such settler so granted leave of absence shall forfeit no rights by reason of such absence: *Provided,* That the time of such actual absence shall not be deducted from the actual residence required by law.

[SEC. 4. That the price of all sections and parts of sections of the public lands within the limits of the portions of the several grants of lands to aid in the construction of rail roads which have been heretofore and which may hereafter be forfeited, which were by the act making such grants or have since been increased to the double minimum price, and, also, of all lands within the limits of any such railroad grant, but not embraced in such grant lying adjacent to and coterminous with the portions of the line of any such railroad which shall not be completed at the date of this act, is hereby fixed at one dollar and twenty-five cents per acre.]

SEC. 5. That any homestead settler who has heretofore entered less than one-quarter section of land may enter other and additional land lying contiguous to the original entry, which shall not, with the land first entered and occupied, exceed in the aggregate one hundred and sixty acres without proof of residence upon and cultivation of the additional entry; and if final proof of settlement and cultivation has been made for the original entry, when the additional entry is made, then the patent shall issue without further proof: *Provided,* That this section shall not apply to or for the benefit of any person

who at the date of making application for entry hereunder does not own and occupy the lands covered by his original entry: *And provided,* That if the original entry should fail for any reason, prior to patent or should appear to be illegal or fraudulent, the additional entry shall not be permitted, or if having been initiated shall be canceled.

[SEC. 6. That every person entitled, under the provisions of the homestead laws, to enter a homestead, who has heretofore complied with or who shall hereafter comply with the conditions of said laws, and who shall have made his final proof thereunder for a quantity of land less than one hundred and sixty acres and received the receiver's final receipt therefor, shall be entitled under said laws to enter as a personal right, and not assignable, by legal subdivisions of the public lands of the United States subject to homestead entry, so much additional land as added to the quantity previously so entered by him shall not exceed one hundred and sixty acres: *Provided,* That in no case shall patent issue for the land covered by such additional entry until the person making such additional entry shall have actually and in conformity with the homestead laws resided upon and cultivated the lands so additionally entered and otherwise fully complied with such laws: *Provided, also,* That this section shall not be construed as affecting any rights as to location of soldiers certificates heretofore issued under section two thousand three hundred and six of the Revised Statutes.

[SEC. 7. That the "act to provide additional regulations for homestead and pre-emption entries of public lands," approved March third, eighteen hundred and seventy-nine, shall not be construed to forbid the taking of testimony for final proof within ten days following the day advertised as upon which such final proof shall be made, in cases where accident or unavoidable delays have prevented the applicant or witnesses from making such proof on the date specified.]

SEC. 8. That nothing in this act shall be construed as suspending, repealing or in any way rendering inoperative the provisions of the act entitled, "An act to provide for the disposal of abandoned and useless military reservations," approved July fifth, eighteen hundred and eighty-four.

Section 1 of the Act of August 30, 1890

Section 1

* * * * * * *

[No person who shall after the passage of this act, enter upon any of the public lands with a view to occupation, entry or settlement under any of the land laws shall be permitted to acquire title to more than three hundred and twenty acres in the aggregate, under all of said laws, but this limitation shall not operate to curtail the right of any person who has heretofore made entry or settlement on the public lands, or whose occupation, entry or settlement, is validated by this act.] * * *

* * * * * * *

Act of September 30, 1890

[JOINT RESOLUTION

[To extend the time of payment to settlers on the public lands in certain cases.

[*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That whenever it shall appear by the filing of such evidence in the offices of any register and receiver as shall be prescribed by the Secretary of the Interior that any settler on the public lands, by reason of a failure of crops for which he is in no wise responsible, is unable to make the payment on his homestead or pre-emption claim required by law, the Commissioner of the General Land Office is hereby authorized to extend the time for such payment for not exceeding one year from the date when the same becomes due.]

Act of March 3, 1893

* * * * * * *

[*And provided further,* That where soldiers' additional homestead entries have been made or initiated upon certificate of the Commissioner of the General Land Office of the right to make such entry, and there is no adverse claimant, and such certificate is found erroneous or invalid for any cause, the purchaser thereunder, on making proof of such purchase, may perfect his title by payment of the Government price for the land; but no person shall be permitted to acquire more than one hundred and sixty acres of public land through the location of any such certificate.]

That the mayors of the cities of Richfield and Morgan, in the Territory of Utah be, and are hereby, authorized to enter in trust for the benefit of the inhabitants of said cities, respectively, for town-site purposes, the school lands situated within the corporate limits of said cities, not exceeding one section in Richfield and one-quarter section in Morgan, subject to the provisions of the Statutes of the United States, relating to town sites, and that the Territory of Utah, through its proper officers, shall be, and is hereby, authorized to select lien lands as indemnity and in full satisfaction for the school lands thus diverted.

For necessary expenses of survey, appraisal, and sale, and pay of custodians, of abandoned military reservations transferred to the control of the Secretary of the Interior under the provisions of an act of Congress approved July fifth, eighteen hundred and eighty-four including a custodian of the ruin of Casa Grande, five thousand dollars; [*Provided,* That the President is hereby authorized by proclamation to withhold from sale and grant for public use to the municipal corporation in which the same is situated all or any portion of any abandoned military reservation not exceeding twenty acres in one place.]

* * * * * * *

Act of August 18, 1894

* * * * * * *

* * * * * * *

[That all soldiers' additional homestead certificates heretofore issued under the rules and regulations of the General Land Office under section twenty-three hundred and six of the Revised Statutes of the United States, or in pursuance of the decisions or instructions of the Secretary of the Interior, of date March tenth, eighteen hundred and seventy seven, or any subsequent decisions or instructions of the Secretary of the Interior or the Commissioner of the General Land Office, shall be, and are hereby, declared to be valid, notwithstanding any attempted sale or transfer thereof; and where such certificates have been or may hereafter be sold or transferred, such sale or transfer shall not be regarded as invalidating the right, but the same shall be good and valid in the hands of bona fide purchasers for value; and all entries heretofore or hereafter made with such certificates by such purchasers shall be approved, and patent shall issue in the name of the assignees.]

* * * * * * *

Act of March 2, 1895

* * * * * * *

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the chief justice of the court exercising Federal jurisdiction in the Territories shall have power to appoint commissioners in the several judicial districts, to be known when appointed as United States court commissioners.

[SEC. 2. That said commissioners shall have power, and it shall be their duty on application by proper person, to administer the oaths in preliminary affidavits and final proofs required under the homestead, pre-emption, timber culture, and desert-land laws in their respective districts, in like manner as provided for in reference to United States circuit court commissioners, in the Act of May twenty-sixth, eighteen hundred and ninety. Twenty-sixth Statutes at Large, page one hundred and twenty-one.

[SEC. 3. That no commissioner shall be appointed who resides within thirty miles of any local land office, nor shall any commissioner be appointed who resides within thirty miles of any other commissioner.]

* * * * * * *

Act of June 16, 1898

[AN ACT

[For the protection of homestead settlers who enter the military or naval service of the United States in time of war.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That in every case in which a settler on the public land of the United States under the homestead laws enlists or is actually engaged in the Army, Navy, or Marine Corps of the United States as private soldier, officer, seaman, or marine, during the existing war with Spain, or during any other war

in which the United States may be engaged, his services therein shall, in the administration of the homestead laws, be construed to be equivalent to all intents and purposes to residence and cultivation for the same length of time upon the tract entered or settled upon; and hereafter no contest shall be initiated on the ground of abandonment, nor allegation of abandonment sustained against any such settler, unless it shall be alleged in the preliminary affidavit or affidavits of contest, and proved at the hearing in cases hereafter initiated, that the settler's alleged absence from the land was not due to his employment in such service: *Provided*, That if such settler shall be discharged on account of wounds received or disability incurred in the line of duty, then the term of his enlistment shall be deducted from the required length of residence without reference to the time of actual service: *Provided further*, That no patent shall issue to any homestead settler who has not resided upon, improved, and cultivated his homestead for a period of at least one year after he shall have commenced his improvements.]

Section 1 of the Act of May 17, 1900

* * * * * * *

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [That all settlers under the homestead laws of the United States upon the agricultural public lands, which have already been opened to settlement, acquired prior to the passage of this Act by treaty or agreement from the various Indian tribes, who have resided or shall hereafter reside upon the tract entered in good faith for the period required by existing law, shall be entitled to a patent for the land so entered upon the payment to the local land officers of the usual and customary fees, and no other or further charge of any kind whatsoever shall be required from such settler to entitle him to a patent for the land covered by his entry: *Provided*, That the right to commute any such entry and pay for said lands in the option of any such settler and in the time and at the prices now fixed by existing laws shall remain in full force and effect: *Provided, however*, That all sums of money so released which if not released would belong to any Indian tribe shall be paid to such Indian tribe by the United States, and that in the event that the proceeds of the annual sales of the public lands shall not be sufficient to meet the payments heretofore provided for agricultural colleges and experimental stations by an Act of Congress, approved August thirtieth, eighteen hundred and ninety, for the more complete endowment and support of the colleges for the benefit of agriculture and mechanic arts, established under the provisions of an Act of Congress, approved July second, eighteen hundred and sixty-two, such deficiency shall be paid by the United States: *And provided further*, That no lands shall be herein included on which the United States Government had made valuable improvements, or lands that have been sold at public auction by said Government.]

Sections 2 and 3 of the Act of June 5, 1900

[SEC. 2. That any person who has heretofore made entry under the homestead laws and commuted same under provisions of section

twenty-three hundred and one of the Revised Statutes of the United States and the amendments thereto shall be entitled to the benefits of the homestead laws, as though such former entry had not been made, except that commutation under the provisions of section twenty-three hundred and one of the Revised Statutes shall not be allowed of an entry made under this section of this Act.

[SEC. 3. That any person who prior to the passage of this Act, has made entry under the homestead laws, but from any cause has lost or forfeited the same shall be entitled to the benefits of the homestead laws as though such former entry had not been made: *Provided*, That persons who purchased land under and in accordance with the terms of an Act entitled "An Act to provide for the sale of lands patented to certain members of the Flathead band of Indians in the Territory of Montana, and for other purposes," approved March second, eighteen hundred and eighty-nine, shall not be held to have impaired or exhausted their homestead rights by or on account of any such purchase.]

Act of January 26, 1901

[AN ACT

[To allow the commutation of homestead entries in certain cases.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the provisions of section twenty-three hundred and one of the Revised Statutes of the United States, as amended, allowing homestead settlers to commute their homestead entries be, and the same hereby are, extended to all homestead settlers affected by or entitled to the benefits of the provisions of the Act entitled "An Act providing for free homesteads on the public lands for actual and bona fide settlers, and reserving the public lands for that purpose," approved the seventeenth day of May, anno Domini nineteen hundred: *Provided, however*, That in commuting such entries the entryman shall pay the price provided in the law under which original entry was made.]

Section 2 of the Act of May 22, 1902

[SEC. 2. That any person who, prior to the passage of an Act entitled "An Act providing for free homesteads on the public lands for actual and bona fide settlers, and reserving the public lands for that purpose," approved May seventeenth, nineteen hundred, having made a homestead entry and perfected the same and acquired title to the land by final entry by having paid the price provided in the law opening the land to settlement, and who would have been entitled to the provisions of the Act before cited had final entry not been made prior to the passage of said Act, may make another homestead entry of not exceeding one hundred and sixty acres of any of the public lands in any State or Territory subject to homestead entry: *Provided*, That any person desiring to make another entry under this Act will be required to make affidavit, to be transmitted with the other filing papers now required by law, giving the description of the tract formerly entered, date and number of entry, and name of the land

office where made, or other sufficient data to admit of readily identifying it on the official records: *And provided further,* That said person has all the other proper qualifications of a homestead entryman: *And provided also,* That commutation under section twenty-three hundred and one of the Revised Statutes, or any amendment thereto, or any similar statute, shall not be permitted of an entry made under this Act, excepting where the final proof, submitted on the former entry hereinbefore described, shows a residence upon the land covered thereby for the full period of five years, or such term of residence thereon as added to any properly credited military or naval service shall equal such period of five years.]

[AN ACT

[Providing for free homesteads in the Ute Indian Reservation in Colorado.

Act of June 13, 1902

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the provisions of the homestead laws be, and are hereby, extended over and shall apply to the lands included within the limits of the former Ute Indian Reservation in Colorado not included in any forest reservation, in addition to the provisions of existing laws relating to cash entries thereon: *Provided,* That no selection or entry of lands in lieu of land included within a forest reservation or of soldiers' or sailors' additional homesteads shall be allowed within said limits.

[SEC. 2. That all sums of money that may be lost to the Ute Indian fund by reason of the passage of this Act shall be paid into the fund by the United States, and all moneys received by reason of the commutation of any homestead entry shall be credited to said Ute Indian fund.

[SEC. 3. That no lands shall be included in any location or settlement under the provisions of this Act on which the United States Government has valuable improvements.]

Sections 2 and 3 of the Act of April 28, 1904

[SEC. 2. That any homestead settler who has heretofore entered, or may hereafter enter, less than one-quarter section of land may enter other and additional land lying contiguous to the original entry which shall not, with the land first entered and occupied, exceed in the aggregate one hundred and sixty acres, without proof of residence upon and cultivation of the additional entry; and if final proof of settlement and cultivation has been made for the original entry when the additional entry is made, then the patent shall issue without further proof: *Provided,* That this section shall not apply to or for the benefit of any person who does not own and occupy the lands covered by the original entry: *And provided,* That if the original entry should fail for any reason prior to patent, or should appear to be illegal or fraudulent, the additional entry shall not be permitted, or, if having been initiated, shall be canceled.

[SEC. 3. That commutation under the provisions of section twenty-three hundred and one of the Revised Statutes shall not be allowed of an entry made under this Act.]

Act of April 28, 1904

[AN ACT

[To amend the homestead laws as to certain unappropriated and unreserved lands in Nebraska.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That from and after sixty days after the approval of this Act entries made under the homestead laws in the State of Nebraska west and north of the following line, to wit: Beginning at a point on the boundary line between the States of South Dakota and Nebraska where the first guide meridian west of the sixth principal meridian strikes said boundary; thence running south along said guide meridian to its intersection with the fourth standard parallel north of the base line between the States of Nebraska and Kansas; thence west along said fourth standard parallel to its intersection with the second guide meridian west of the sixth principal meridian; thence south along said second guide meridian to its intersection with the third standard parallel north of the said base line; thence west along said third standard parallel to its intersection with the range line between ranges twenty-five and twenty-six west of the sixth principal meridian; thence south along said line to its intersection with the second standard parallel north of the said base line; thence west on said standard parallel to its intersection with the range line between ranges thirty and thirty-one west; thence south along said line to its intersection with the boundary line between the States of Nebraska and Kansas, shall not exceed in area six hundred and forty acres, and shall be as nearly compact in form as possible, and in no event over two miles in extreme length: *Provided*, That there shall be excluded from the provisions of this Act such lands within the territory herein described as in the opinion of the Secretary of the Interior it may be reasonably practicable to irrigate under the national irrigation law, or by private enterprise; and that said Secretary shall, prior to the date above mentioned, designate and exclude from entry under this Act the lands, particularly along the North Platte River, which in his opinion it may be possible to irrigate as aforesaid; and shall thereafter, from time to time, open to entry under this Act any of the lands so excluded, which, upon further investigation, he may conclude can not be practically irrigated in the manner aforesaid.

[SEC. 2. That entrymen under the homestead laws of the United States within the territory above described who own and occupy the lands heretofore entered by them, may, under the provisions of this Act and subject to its conditions, enter other lands contiguous to their said homestead entry, which shall not, with the land so already entered, owned, and occupied, exceed in the aggregate six hundred and forty acres; and residence upon the original homestead shall be accepted as equivalent to residence upon the additional land so entered, but final entry shall not be allowed of such additional land until five years after first entering the same.

[SEC. 3. That the fees and commissions on all entries under this Act shall be uniformly the same as those charged under the present law for a maximum entry at the minimum price. That the commutation provisions of the homestead law shall not apply to entries under this Act, and at the time of making final proof the entryman must prove affirmatively that he has placed upon the lands entered permanent improvements of the value of not less than one dollar and twenty-five cents per acre for each acre included in his entry: *Provided*, That a former homestead entry shall not be a bar to the entry under the provisions of this Act of a tract which, together with the former entry, shall not exceed six hundred and forty acres: *Provided*, That any former homestead entryman who shall be entitled to an additional entry under section two of this Act shall have for ninety days after the passage of this Act the preferential right to make additional entry as provided in said section.]

Act of February 19, 1909

[AN ACT

[To provide for an enlarged homestead.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.* That any person who is a qualified entryman under the homestead laws of the United States may enter, by legal subdivisions, under the provisions of this Act, in the States of Colorado, Montana, Nevada, Oregon, Utah, Washington, and Wyoming, and the Territories of Arizona and New Mexico, three hundred and twenty acres, or less, of nonmineral, nonirrigable, unreserved and unappropriated surveyed public lands which do not contain merchantable timber, located in a reasonably compact body, and not over one and one-half miles in extreme length: *Provided*, That no lands shall be subject to entry under the provisions of this Act until such lands shall have been designated by the Secretary of the Interior as not being, in his opinion, susceptible of successful irrigation at a reasonable cost from any known source of water supply.

[SEC. 2. That any person applying to enter land under the provisions of this Act shall make and subscribe before the proper officer an affidavit as required by section twenty-two hundred and ninety of the Revised Statutes, and in addition thereto shall make affidavit that the land sought to be entered is of the character described in section one of this Act, and shall pay the fees now required to be paid under the homestead laws.

[SEC. 3. That any homestead entryman of lands of the character herein described, upon which final proof has not been made, shall have the right to enter public lands, subject to the provisions of this Act, contiguous to his former entry which shall not, together with the original entry, exceed three hundred and twenty acres, and residence upon and cultivation of the original entry shall be deemed as residence upon and cultivation of the additional entry.

[SEC. 4. That at the time of making final proofs as provided in section twenty-two hundred and ninety-one of the Revised Statutes the entryman under this Act shall, in addition to the proofs and affidavits

required under the said section, prove by two credible witnesses that at least one-eight of the area embraced in his entry was continuously cultivated to agricultural crops other than native grasses beginning with the second year of the entry, and that at least one-fourth of the area embraced in the entry was so continuously cultivated beginning with the third year of the entry.

[SEC. 5. That nothing herein contained shall be held to affect the right of a qualified entryman to make homestead entry in the States named in section one of this Act under the provisions of section twenty-two hundred and eighty-nine of the Revised Statutes, but no person who has made entry under this Act shall be entitled to make homestead entry under the provisions of said section, and no entry made under this Act shall be commuted.

[SEC. 6. That whenever the Secretary of the Interior shall find that any tracts of land, in the State of Utah, subject to entry under this Act, do not have upon them such a sufficient supply of water suitable for domestic purposes as would make continuous residence upon the lands possible, he may, in his discretion, designate such tracts of land, not to exceed in the aggregate two million acres, and thereafter they shall be subject to entry under this Act without the necessity of residence: *Provided*, That in such event the entryman on any such entry shall in good faith cultivate not less than one-eighth of the entire area of the entry during the second year, one-fourth during the third year, and one-half during the fourth and fifth years after the date of such entry, and that after entry and until final proof the entryman shall reside within such distance of said land as will enable him successfully to farm the same as required by this section.]

Act of June 17, 1910

[AN ACT

[To provide for an enlarged homestead.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That any person who is a qualified entryman under the homestead laws of the United States may enter, by legal subdivision, under the provisions of this Act, in the State of Idaho, three hundred and twenty acres or less of arid nonmineral, nonirrigable, unreserved, and unappropriated surveyed public lands which do not contain merchantable timber, located in a reasonably compact body and not over one and one-half miles in extreme length: *Provided*, That no lands shall be subject to entry under the provisions of this Act until the lands shall have been designated by the Secretary of the Interior as not being, in his opinion, susceptible of successful irrigation, at a reasonable cost, from any known source of water supply.

[SEC. 2. That any person applying to enter land under the provisions of this Act shall make and subscribe before the proper officer an affidavit as required by section twenty-two hundred and ninety of the Revised Statutes, and in addition thereto shall make affidavit that the land sought to be entered is of the character described in section one of this Act, and shall pay the fees now required to be paid under the homestead laws.

[SEC. 3. That any homestead entryman of lands of the character herein described, upon which final proof has not been made, shall have the right to enter public lands, subject to the provisions of this Act, contiguous to his former entry, which shall not, together with the original entry, exceed three hundred and twenty acres, and residence upon and cultivation of the original entry shall be deemed as residence upon and cultivation of the additional entry.

[SEC. 4. That at the time of making final proofs as provided in section twenty-two hundred and ninety-one of the Revised Statutes, the entryman under this Act shall, in addition to the proofs and affidavits required under said section, prove by two credible witnesses that at least one-eighth of the area embraced in his entry was continuously cultivated to agricultural crops other than native grasses beginning with the second year of the entry, and that at least one-fourth of the area embraced in the entry was so continuously cultivated beginning with the third year of the entry.

[SEC. 5. That nothing herein contained shall be held to affect the right of a qualified entryman to make homestead entry in the State of Idaho under the provisions of section twenty-two hundred and eighty-nine of the Revised Statutes, but no person who has made entry under this Act shall be entitled to make homestead entry under the provisions of said section, and no entry made under this Act shall be commuted.

[SEC. 6. That whenever the Secretary of the Interior shall find that any tracts of land in the State of Idaho subject to entry under this Act do not have upon them such a sufficient supply of water suitable for domestic purposes as would make continuous residence upon the lands possible, he may, in his discretion, designate such tracts of land, not to exceed in the aggregate three hundred and twenty thousand acres, and thereafter they shall be subject to entry under this Act without the necessity of residence upon the land entered: *Provided*, That the entryman shall in good faith cultivate not less than one-eighth of the entire area of the entry during the second year, one-fourth during the third year, and one-half during the fourth and fifth years after the date of said entry, and that after six months from date of entry and until final proof the enteryman shall reside not more than twenty miles from said land and be engaged personally in preparing the soil for seed, seeding, cultivating, and harvesting crops upon the land during the usual seasons for such work unless prevented by sickness or other unavoidable cause. Leave of absence from a residence established under this section may, however, be granted upon the same terms and conditions as are required of other homestead entrymen.]

Act of March 4, 1913

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PUBLIC LAND SERVICE

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[That any person entitled to enter lands under the homestead laws, who may have established residence upon unsurveyed lands (which were subject to homestead entry) prior to the passage and approval of the Act of June sixth, nineteen hundred and twelve, entitled "An

Act to amend section twenty-two hundred and ninety-one and section twenty-two hundred and ninety-seven, of the Revised Statutes relating to homesteads," may perfect his proof for such lands under said Act of June sixth, nineteen hundred and twelve, or under the law existing at the time of the establishment of such residence, as he may elect, such election to be signified to the Department of the Interior in accordance with rules and regulations to be prescribed by the Secretary.]

* * * * * * *

Act of April 6, 1914

[AN ACT

[Providing that the marriage of a homestead entryman to a homestead entrywoman shall not impair the right of either to a patent, after compliance with the law a year, to apply to existing entries.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the marriage of a homestead entryman to a homestead entrywoman after each shall have fulfilled the requirements of the homestead law for one year next preceding such marriage shall not impair the right of either to a patent, but the husband shall elect, under rules and regulations prescribed by the Secretary of the Interior, on which of the two entries the home shall thereafter be made, and residence thereon by the husband and wife shall constitute a compliance with the residence requirements upon each entry: *Provided*, That the provisions hereof shall apply to existing entries: *Provided further*, That in the administration of this Act the terms "entryman" and "entrywoman" shall be construed to include bona fide settlers who have complied with the homestead law for at least one year next preceding such marriage.]

Act of August 22, 1914

[AN ACT

[To provide for leave of absence for homestead entrymen in one or two periods.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the entryman mentioned in section twenty-two hundred and ninety-one, Revised Statutes of the United States, as amended by the Act of June sixth, nineteen hundred and twelve, Thirty-seventh Statutes, one hundred and twenty-three, upon filing in the local land office notice of the beginning of such absence at his option shall be entitled to a leave of absence in one or two continuous periods not exceeding in the aggregate five months in each year after establishing residence; and upon the termination of such absence, in each period, the entryman shall file a notice of such termination in the local land office; but in case of commutation, the fourteen months actual residence, as now required by law, must be shown, and the person commuting be at the time a citizen of the United States.]

Act of September 5, 1914

[AN ACT

[Providing for second homestead and desert-land entries.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That any person otherwise duly qualified to make entry or entries of public lands under the homestead or desert-land laws, who has heretofore made or may hereafter make entry under said laws, and who, through no fault of his own, may have lost, forfeited, or abandoned the same, or who may hereafter lose, forfeit, or abandon same, shall be entitled to the benefits of the homestead or desert-land laws as though such former entry or entries had never been made: *Provided,* That such applicant shall show to the satisfaction of the Secretary of the Interior that the prior entry or entries were made in good faith, were lost, forfeited, or abandoned because of matters beyond his control, and that he has not speculated in his right nor committed a fraud or attempted fraud in connection with such prior entry or entries.]

Act of October 17, 1914

[AN ACT

[To provide for certificate of title to homestead entry by a female American citizen who has intermarried with an alien.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That any female citizen of the United States who has initiated a claim to a tract of public land under any of the laws applicable thereto, and who thereafter has complied with all the conditions as to the acquisition of title to such land prescribed by the public-land laws of the United States, shall, notwithstanding her intermarriage with an alien, who is entitled to become a citizen of the United States, be entitled to a certificate or patent to such entry equally as though she had remained unmarried or had married an American citizen.]

Act of October 22, 1914

[AN ACT

[To provide for issuing of patents for public lands claimed under the homestead laws by deserted wives.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [That in any case in which persons have regularly initiated claims to public lands as settlers thereon under the provisions of the homestead laws and the wife of such homestead settler or entryman, while residing upon the homestead claim and prior to submission of final proof of residence, cultivation, and improvement as prescribed by law, has been abandoned and deserted by her husband for a period of more than one year, the deserted wife shall, upon establishing the fact of such abandonment

or desertion to the satisfaction of the Secretary of the Interior, be entitled to submit proof upon such claim and obtain patent therefor in her name in the form, manner, and subject to the conditions prescribed in section twenty-two hundred and ninety-one of the Revised Statutes of the United States and Acts supplemental thereto and amendatory thereof: *Provided*, That in such cases the wife shall be required to show residence upon, cultivation, and improvement of the homestead by herself for such time as when, added to the time during which her husband prior to desertion had complied with the law, would aggregate the full amount of residence, improvement, and cultivation required by law: *And provided further*, That the published and posted notices of intention to submit final proof in such cases shall recite the fact that the proof is to be offered and patent sought by applicant as a deserted wife, and, prior to its submission, notice thereof shall be served upon the husband of the applicant in such a manner and under such rules and regulations as the Secretary of the Interior shall prescribe.]

Section 1 of the Act of March 4, 1915

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [That where any person qualified to make entry under the provisions of the Act of February nineteenth, nineteen hundred and nine, and Acts amendatory thereof and supplemental thereto, shall make application to enter under the provisions of said Acts any unappropriated public land in any State affected thereby which has not been designated as subject to entry under the Act (provided said application is accompanied and supported by properly corroborated affidavit of the applicant in duplicate, showing prima facie that the land applied for is of the character contemplated by said Acts), such application, together with the regular fees and commissions, shall be received by the register and receiver of the land district in which said land is located, and suspended until it shall have been determined by the Secretary of the Interior whether said land is actually of that character; that during such suspension the land described in said application shall be segregated by the said register and receiver and not subject to entry until the case is disposed of; and if it shall be determined that such land is of the character contemplated by the said Acts, then such application shall be allowed; otherwise it shall be rejected, subject to appeal: *Provided*, That the provisions of this Act shall apply to the application of a qualified entryman to make additional entry of unappropriated land adjoining his unperfected homestead entry, the area of which, together with his original entry, shall not exceed three hundred and twenty acres.]

Act of July 3, 1916

[AN ACT

[Authorizing leave of absence to homestead settlers upon unsurveyed lands.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That any qualified

person who has heretofore or shall hereafter in good faith make settlement upon and improve unsurveyed unreserved unappropriated public lands of the United States with intention, upon survey, of entering same under the homestead laws shall be entitled to a leave of absence in one or two periods not exceeding in the aggregate five months in each year after establishment of residence: *Provided*, That he shall have plainly marked on the ground the exterior boundaries of the lands claimed and have filed in the local land office notice of the approximate location of the lands settled upon and claimed, of the period of intended absence, and that he shall upon the termination of the absence and his return to the land file notice thereof in the local land office.]

Act of August 21, 1916

[AN ACT

[To open abandoned military reservations in the State of Nevada to homestead entry and desert-land entry, and to amend an Act entitled "An Act to open abandoned military reservations in the State of Nevada to homestead entry," approved October first, eighteen hundred and ninety.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That all the agricultural lands embraced within the military reservations in the State of Nevada which have been placed under the control of the Secretary of the Interior for disposition be disposed of under the homestead and desert-land laws, and not otherwise: *Provided*, That this Act is intended to make applicable to the desert-land laws only such lands as were included under the Act of March third, eighteen hundred and seventy-seven, providing for the disposition of public lands under the desert-land laws.]

Act of December 29, 1916

* * * * * * *

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [From and after December 29, 1916, it shall be lawful for any person qualified to make entry under the homestead laws of the United States to make a stock-raising homestead entry for not exceeding six hundred and forty acres of unappropriated unreserved public lands in reasonably compact form: *Provided, however*, That the land so entered shall theretofore have been designated by the Secretary of the Interior as "stock-raising lands": *Provided further*, That for the purposes of this section lands withdrawn or reserved solely as valuable for oil or gas shall not be deemed to be appropriated or reserved: *Provided further*, That the provisions of this section shall not apply to naval petroleum reserves and naval oil-shale reserves: *And provided further*, That should said lands be within the limits of the geological structure of a producing oil or gas field entry can only be allowed, in the discretion of the Secretary of the Interior, in the absence of objection after due notice by the lessee or permittee, and any patent therefor shall contain a reservation to the United States of all minerals in said lands and the right to prospect for, mine, and remove the same.

[SEC. 2. That the Secretary of the Interior is hereby authorized, on application or otherwise, to designate as stock-raising lands subject to entry under this Act lands the surface of which is, in his opinion, chiefly valuable for grazing and raising forage crops, do not contain merchantable timber, are not susceptible of irrigation from any known source of water supply, and are of such character that six hundred and forty acres are reasonably required for the support of a family: *Provided*, That where any person qualified to make original or additional entry under the provisions of this Act shall make application to enter any unappropriated public land which has not been designated as subject to entry (provided said application is accompanied and supported by properly corroborated affidavit of the applicant, in duplicate, showing prima facie that the land applied for is of the character contemplated by this Act), such application, together with the regular fees and commissions, shall be received by the register and receiver of the land district in which said land is located and suspended until it shall have been determined by the Secretary of the Interior whether said land is actually of that character. That during such suspension the land described in the application shall not be disposed of; and if the said land shall be designated under this Act, then such application shall be allowed; otherwise it shall be rejected, subject to appeal; but no right to occupy such lands shall be acquired by reason of said application until said lands have been designated as stock-raising lands.

[SEC. 3. That any qualified homestead entryman may make entry under the homestead laws of lands so designated by the Secretary of the Interior, according to legal subdivisions, in areas not exceeding six hundred and forty acres, and in compact form so far as may be subject to the provisions of this Act, and secure title thereto by compliance with the terms of the homestead laws: *Provided*, That a former homestead entry of land of the character described in section two hereof shall not be a bar to the entry of a tract within a radius of twenty miles from such former entry under the provisions of this Act, subject to the requirements of law as to residence and improvements, which, together with the former entry, shall not exceed six hundred and forty acres: *Provided further*, That the entryman shall be required to enter all contiguous areas of the character herein described open to entry prior to the entry of any noncontiguous land: *Provided further*, That instead of cultivation as required by the homestead laws the entryman shall be required to make permanent improvements upon the land entered before final proof is submitted tending to increase the value of the same for stock-raising purposes, of the value of not less than $1.25 per acre, and at least one-half of such improvements shall be placed upon the land within three years after the date of entry thereof.

[SEC. 4. That any homestead entryman of lands of the character herein described, who has not submitted final proof upon his existing entry, shall have the right to enter, subject to the provisions of this Act, such amount of contiguous lands designated for entry under the provisions of this Act as shall not, together with the amount embraced in his original entry, exceed six hundred and forty acres, and residence upon the original entry shall be credited on both entries, but improvements must be made on the additional entry equal to $1.25 for each acre thereof.

[SEC. 5. That persons who have submitted final proof upon, or received patent for, lands of the character herein described under the homestead laws, and who own and reside upon the land so acquired, may, subject to the provisions of this Act, make additional entry for and obtain patent to contiguous lands designated for entry under the provisions of this Act, which, together with the area theretofore acquired under the homestead law, shall not exceed six hundred and forty acres, on proof of the expenditure required by this Act on account of permanent improvements upon the additional entry.

[SEC. 6. That any person who is the head of a family, or who has arrived at the age of twenty-one years and is a citizen of the United States, who has entered or acquired under the homestead laws, prior to the passage of this Act, lands of the character described in this Act, the area of which is less than six hundred and forty acres, and who is unable to exercise the right of additional entry herein conferred because no lands subject to entry under this Act adjoin the tract so entered or acquired or lie within the twenty mile limit provided for in this Act, may, upon submitting proof that he resides upon and has not sold the land so entered or acquired and against which land there are no encumbrances, relinquish or reconvey to the United States the land so occupied, entered, or acquired, and in lieu thereof, within the same land-office district, may enter and acquire title to six hundred and forty acres of the land subject to entry under this Act, but must show compliance with all the provisions of this Act respecting the new entry and with all the provisions of existing homestead laws except as modified herein.

[SEC. 7. That the commutation provisions of the homestead laws shall not apply to any entries made under this Act.

[SEC. 8. That any homestead entrymen or patentees who shall be entitled to additional entry under this Act shall have, for ninety days after the designation of lands subject to entry under the provisions of this Act and contiguous to those entered or owned and occupied by him, the preferential right to make additional entry as provided in this Act: *Provided*, That where such lands contiguous to the lands of two or more entrymen or patentees entitled to additional entries under this section are not sufficient in area to enable such entrymen to secure by additional entry the maximum amounts to which they are entitled, the Secretary of the Interior is authorized to make an equitable division of the lands among the several entrymen or patentees, applying to exercise preferential rights, such division to be in tracts of not less than forty acres, or other legal subdivision, and so made as to equalize as nearly as possible the area which such entrymen and patentees will acquire by adding the tracts embraced in additional entries to the lands originally held or owned by them: *Provided further*, That where but one such tract of vacant land may adjoin the lands of two or more entrymen or patentees entitled to exercise preferential right hereunder, the tract in question may be entered by the person who first submits to the local land office his application to exercise said preferential right.

[SEC. 9. That all entries made and patents issued under the provisions of this Act shall be subject to and contain a reservation to the United States of all the coal and other minerals in the lands so entered and patented, together with the right to prospect for, mine, and remove the same. The coal and other mineral deposits in such

lands shall be subject to disposal by the United States in accordance with the provisions of the coal and mineral land laws in force at the time of such disposal. Any person qualified to locate and enter the coal or other mineral deposits, or having the right to mine and remove the same under the laws of the United States, shall have the right at all times to enter upon the lands entered or patented, as provided by this Act, for the purpose of prospecting for coal or other mineral therein, provided he shall not injure, damage, or destroy the permanent improvements of the entryman or patentee, and shall be liable to and shall compensate the entryman or patentee for all damages to the crops on such lands by reason of such prospecting. Any person who has acquired from the United States the coal or other mineral deposits in any such land, or the right to mine and remove the same, may reenter and occupy so much of the surface thereof as may be required for all purposes reasonably incident to the mining or removal of the coal or other minerals, first, upon securing the written consent or waiver of the homestead entryman or patentee; second, upon payment of the damages to crops or other tangible improvements to the owner thereof, where agreement may be had as to the amount thereof; or, third, in lieu of either of the foregoing provisions, upon the execution of a good and sufficient bond or undertaking to the United States for the use and benefit of the entryman or owner of the land, to secure the payment of such damages to the crops or tangible improvements of the entryman or owner, as may be determined and fixed in an action brought upon the bond or undertaking in a court of competent jurisdiction against the principal and sureties thereon, such bond or undertaking to be in form and in accordance with rules and regulations prescribed by the Secretary of the Interior and to be filed with and approved by the register and receiver of the local land office of the district wherein the land is situate, subject to appeal to the Commissioner of the General Land Office: *Provided,* That all patents issued for the coal or other mineral deposits herein reserved shall contain appropriate notations declaring them to be subject to the provisions of this Act with reference to the disposition, occupancy, and use of the land as permitted to an entryman under this Act.]

* * * * * * *

[SEC. 11. That the Secretary of the Interior is hereby authorized to make all necessary rules and regulations in harmony with the provisions and purposes of this Act for the purpose of carrying the same into effect.]

Act of February 20, 1917

[AN ACT

[To allow additional entries under the enlarged homestead Act.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That any person otherwise qualified who has obtained title under the homestead laws to less than one quarter section of land my make entry and obtain title under the provisions of the Act entitled "An Act to provide for enlarged homesteads," approved February nineteenth, nineteen hundred and nine, and an Act of June seventeenth, nineteen hundred and ten,

entitled "An Act to provide for an enlarged homestead," for such an area of public land as will, when one-half of such area is added to the area of the lands to which he has already obtained title, not exceed one quarter section: *Provided*, That this Act shall not be construed to apply to soldiers' additional homestead entries made under section twenty-three hundred and six, United States Revised Statutes, or Acts amendatory thereof or supplemental thereto.]

Act of December 20, 1917

[AN ACT

[To authorize absence by homestead settlers and entrymen, and for other purposes.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That during the pendency of the existing war any homestead settler or entryman shall be entitled to a leave of absence from his land for the purpose of performing farm labor, and such absence, while actually engaged in farm labor, shall, upon compliance with the terms of this Act, be counted as constructive residence: *Provided*, That each settler or entryman within fifteen days after leaving his claim for the purpose herein provided shall file notice thereof in the United States Land Office, and at the expiration of the calendar year file in said land office of the district wherein his claim is situated a written statement, under oath and corroborated by two witnesses, giving the date or dates when he left his claim, date or dates of return thereto, and where and for whom he was engaged in farm labor during such period or periods of absence: *Provided further*, That nothing herein shall excuse any homestead settler or entryman from making improvements or performing the cultivation required by applicable law upon his claim or entry: *Provided further*, That the provisions of this Act shall apply only to homestead settlers and entrymen who may have filed their application prior to the passage of this Act. The Secretary of the Interior is authorized to provide rules and regulations for carrying this Act into effect.]

Act of February 25, 1919

[AN ACT

[To extend the provisions of the homestead laws touching credit for period of enlistment to the soldiers, nurses, and officers of the Army and the seamen, marines, nurses, and officers of the Navy and the Marine Corps of the United States who have served or will have served with the Mexican border operations or during the war between the United States and Germany and her allies.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That subject to the conditions therein expressed, as to length of service and honorable discharge, the provisions of sections twenty-three hundred and four and twenty-three hundred and five, Revised Statutes of the United

States, shall be applicable in all cases of military and navel service rendered in connection with the Mexican border operations or during the war with Germany and its allies as defined by public resolution numbered thirty-two, approved August twenty-ninth, nineteen hundred and sixteen (Thirty-ninth Statutes at Large, page six hundred and seventy-one), and the Act approved July twenty-eighth, nineteen hundred and seventeen (Fortieth Statutes at Large, page two hundred and forty-eight).]

Act of July 24, 1919

* * * * * * *

[That any homestead settler or entryman who, during the calendar year 1919, finds it necessary to leave his homestead to seek employment in order to obtain food and other necessaries of life for himself, family, and work stock, because of great and serious drought conditions, causing total or partial failures of crops, may, upon filing with the register and receiver proof of such conditions in the form of a corroborated affidavit, be excused from residence upon his homestead during all or part of the calendar year 1919, or the current year of such homestead which may fall principally in the year 1919, and in the making of final proof upon such an entry absence granted under this Act shall be counted and construed as constructive residence by said homesteader.]

* * * * * * *

Act of September 29, 1919

[AN ACT

[To authorize absence by homestead settlers and entrymen, and for other purposes.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That every person who, after discharge from the military or naval service of the United States during the war against Germany and its allies, is furnished any course of vocational rehabilitation under the terms of the Vocational Rehabilitation Act approved June 27, 1918, upon the ground that he comes within article 111 of the Act of October 6, 1917, fortieth volume, Statutes at Large, page 398, and who before entering upon such course shall have made entry upon or application for public lands of the United States under the homestead laws, or who has settled or shall hereafter settle upon public lands, shall be entitled to a leave of absence from his land for the purpose of undergoing training by the Federal Board of Vocational Education, and such absence, while actually engaged in such training shall be counted as constructive residence: *Provided*, That no patent shall issue to any homestead settler who has not resided upon, improved, and cultivated his homestead for a period of at least one year.]

Act of February 14, 1920

[JOINT RESOLUTION

[Giving to discharged soldiers, sailors, and marines a preferred right of homestead entry.

[*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That hereafter, for the period of two years following the passage of this Act, on the opening of public or Indian lands to entry, or the restoration to entry of public lands theretofore withdrawn from entry, such opening or restoration shall, in the order therefor, provide for a period of not less than sixty days before the general opening of such lands to disposal in which officers, soldiers, sailors, or marines who have served in the Army or Navy of the United States in the war with Germany and been honorably separated or discharged therefrom or placed in the Regular Army or Naval Reserve shall have a preferred right of entry under the homestead or desert land laws, if qualified thereunder, except as against prior existing valid settlement rights and as against preference rights conferred by existing laws or equitable claims subject to allowance and confirmation: *Provided*, That the rights and benefits conferred by this Act shall not extend to any person who, having been drafted for service under the provisions of the Selective Service Act, shall have refused to render such service or to wear the uniform of such service of the United States.

[SEC. 2. That the Secretary of the Interior is hereby authorized to make any and all regulations necessary to carry into full force and effect the provisions hereof.]

Act of March 1, 1921

(Amended Act of April 6, 1914)

Act of March 1, 1921

[AN ACT

[To authorize certain homestead settlers or entrymen who entered the military or naval service of the United States during the war with Germany to make final proof of their entries.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That any settler or entryman under the homestead laws of the United States, who, after settlement, application, or entry and prior to November 11, 1918, enlisted or was actually engaged in the United States Army, Navy, or Marine Corps during the war with Germany, who has been honorably discharged and because of physical incapacities due to service is unable to return to the land, may make proof, without further residence, improvement, or cultivation, at such time and place as may be authorized by the Secretary of the Interior, and receive patent to the land by him so entered or settled upon: *Provided*, That no such patent shall issue prior to the survey of the land.]

Section 1 of the Act of March 4, 1921

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [That all pending homestead entries made in good faith prior to January 1, 1916, under the provisions of the enlarged homestead laws, and all rights to enter land under said laws, based on settlement made thereon in good faith before said date, and while the land was unsurveyed, by persons who, before making such enlarged homestead entry, had acquired title to land under the homestead laws, and therefore were not qualified to make an enlarged homestead entry, or such settlement, be, and the same are hereby, validated, if in all other respects regular, in all cases where the original homestead entry was for less than one hundred and sixty acres of land: *Provided,* That no settlement claim shall be validated hereby where adverse claim for the land has been initiated before the passage of this Act.]

Act of April 6, 1922

[AN ACT

[To extend the provisions of section 2305, Revised Statutes, and of the Act of September 29, 1919, to those discharged from the military or naval service of the United States and subsequently awarded compensation or treated for wounds received or disability incurred in line of duty.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the provisions of section 2305, Revised Statutes of the United States, as amended by the Act of February 25, 1919 (Fortieth Statutes, page 1161), so far as applicable to those discharged from the military or naval service because of wounds received or disability incurred therein, be, and the same are hereby, extended to those regularly discharged from such service and subsequently awarded compensation by the Government for wounds received or disability incurred in the line of duty.]

Act of March 4, 1923

[AN ACT

[For the relief of certain homestead entrymen.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That any homestead entryman of one hundred and sixty acres or less of lands which have been or may hereafter be designated or classified by the Secretary of the Interior as subject to entry under the provisions of the Enlarged Homestead Act of February 19, 1909, or June 17, 1910, who has not submitted final proof upon his existing entry, and any homestead entryman who has submitted final proof, or received patent, for such an amount of lands which have been or may hereafter be designated or classified by the Secretary of the Interior as of the character described in said Act, and who owns and resides

upon the said homestead entry, where said lands are within a national forest, may make an additional entry for and obtain patent to such an amount of land, of that same character, not in a national forest, and within a radius of twenty miles from said homestead entry, as, when the area thereof is added to the area of the original entry, will not exceed three hundred and twenty acres, and residence upon the original entry shall be credited on both entries; but cultivation must be made on the additional entry as required by said Act. For the purposes of this Act the Secretary of the Interior is authorized to designate as subject to the Enlarged Homestead Acts lands embraced, at the time of such designation, within valid subsisting entries within national forests.

[SEC. 2. That any homestead entryman of one hundred and sixty acres or less of lands which have been or may hereafter be designated or classified by the Secretary of the Interior as subject to entry under the provisions of the Stock Raising Homestead Act of December 29, 1916, who has not submitted final proof upon his existing entry, and also any homestead entryman who has submitted final proof or received patent, for such an amount of lands that are of the character described as subject to entry under the provisions of the said Stock Raising Homestead Act, and who owns and resides upon the said homestead entry, where said lands are within a national forest, may make an additional entry for and obtain patent to such an amount of land of that same character, not in a national forest and within a radius of twenty miles from said homestead entry, as, when the area thereof is added to the area of the original entry, will not exceed six hundred and forty acres, and residence upon the original entry shall be credited on both entries; but improvements must be made on the additional entry equal to $1.25 for each acre thereof. For the purposes of this Act the Secretary of the Interior is authorized to designate under the Stock Raising Homestead Act lands embraced, at the time of such designation, within valid subsisting entries within national forests.]

Act of June 3, 1924

[AN ACT

[To authorize acquisition of unreserved public lands in the Columbia or Moses Reservation, State of Washington, under Acts of March 28, 1912, and March 3, 1877, and for other purposes.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That from and after the passage of this Act all unreserved public lands within the former Columbia or Moses Reserve in the State of Washington, made subject to acquisition under the homestead laws by the Act of Congress approved July 4, 1884 (Twenty-third Statutes, page 76), be, and they are hereby, made subject to acquisition under the Isolated Tract (Act of March 28, 1912), Desert Land (Act of March 3, 1877), and other Acts applicable generally to the public domain.]

Act of February 25, 1925

[AN ACT

[To restore homestead rights in certain cases.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That from and after the passage of this Act any person who has heretofore entered, under the homestead laws, and paid a price equivalent to or greater than $2.50 per acre, lands embraced in a ceded Indian reservation, shall, upon proof of such fact, if otherwise qualified, be entitled to the benefits of the homestead law as though such former entry had not been made: *Provided,* That the provisions of this Act shall not apply to any person who has failed to pay the full price for his former entry, or whose former entry was canceled for fraud.]

Act of June 8, 1926

[AN ACT

[To authorize the Secretary of the Interior to issue patents for lands held under color of title.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That whenever it shall be shown to the satisfaction of the Secretary of the Interior that a tract or tracts of public land, not known to be mineral, in the State of New Mexico, not exceeding in the aggregate one hundred and sixty acres, has or have been held in good faith and in peaceful, adverse possession by a citizen of the United States, his ancestors or grantors, for more than twenty years under claim or color of title, and that valuable improvements have been placed on such land, or some part thereof has been reduced to cultivation, the Secretary may, in his discretion, upon the payment of $1.25 per acre, cause a patent or patents to issue for such land to any such citizen: *Provided,* That where the area or areas so held by any such citizen is in excess of one hundred and sixty acres the Secretary may determine what particular subdivisions, not exceeding one hundred and sixty acres in the aggregate, to any such citizen may be patented hereunder: *Provided further,* That the term "citizen" as used herein shall be held to include a corporation organized under the laws of the United States or any State or Territory thereof.]

Act of April 7, 1930

[AN ACT

[To allow credit to homestead settlers and entrymen for military service in certain Indian wars.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That in every case in which an entryman or settler upon the public lands of the United

States under the homestead laws has established, or may hereafter establish, military service in accordance with the provisions of the Act entitled "An Act granting pensions to certain soldiers who served in the Indian wars from 1817 to 1898, and for other purposes," approved March 3, 1927, the military service of such entryman or settler so established shall, in the administration of the homestead laws, be construed to be equivalent to all intents and purposes to residence and cultivation for the same length of time upon the tract entered or settled upon; except that (1) if any such entryman or settler was discharged on account of wounds received or disability incurred in line of duty, then the term of his enlistment shall be deducted from the required length of residence without reference to the time of actual service; and (2) no patent shall issue to any such entryman or settler who has not resided upon, improved, and cultivated his homestead for a period of at least one year.]

Act of February 23, 1932

[AN ACT

[To authorize the Secretary of the Interior to issue patents for lands held under color of title.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That whenever it shall be shown to the satisfaction of the Secretary of the Interior that a tract or tracts of public land, contiguous to a Spanish or Mexican land grant, in the State of New Mexico, not exceeding in the aggregate one hundred and sixty acres, has or have been held in good faith and in peaceful, adverse possession by a citizen of the United States, his ancestors or grantors, for more than twenty years under claim or color of title, and that valuable improvements have been placed on such land, or some part thereof has been reduced to cultivation, the Secretary may, in his discretion, upon the payment of $1.25 per acre, cause a patent or patents to issue for such land to any such citizen: *Provided,* That where the area or areas so held by any such citizen is in excess of one hundred and sixty acres the Secretary may determine what particular subdivisions, not exceeding one hundred and sixty acres in the aggregate, to any such citizen may be patented hereunder: *Provided further,* That coal and all other minerals contained therein are hereby reserved to the United States; that said coal and other minerals shall be subject to sale or disposal by the United States under applicable leasing and mineral land laws, and permittees, lessees, or grantees of the United States shall have the right to enter upon said lands for the purpose of prospecting for and mining such deposits: *Provided further,* That the term "citizen," as used herein, shall be held to include a corporation organized under the laws of the United States or any State or Territory thereof.]

Act of March 2, 1932

[AN ACT

[To excuse certain persons from residence upon homestead lands during 1929, 1930, 1931, and 1932, in the drought-stricken areas.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That any homestead settler or entryman who, during the calendar year 1929, 1930, or 1931, found it necessary, or during 1932 should find it necessary, to leave his homestead to seek employment in order to obtain food and other necessaries of life for himself, family, or work stock because of serious drought conditions, causing total or partial failure of crops, may, upon filing with the register of the district proof of such conditions in the form of a corroborated affidavit, be excused from residence upon his homestead during all or part of the calendar years 1929, 1930, 1931, and 1932, and said entries shall not be open to contest or protest because of such absences: *Provided*, That the time of such actual absence shall not be deducted from the actual residence required by law, but an equivalent period shall be added to the statutory life of the entry.]

Act of May 13, 1932

[AN ACT

[To extend the period of time during which final proof may be offered by homestead entrymen.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Interior is hereby authorized to extend for a period of not to exceed two years the period during which final proof may be offered by any homestead entryman upon public lands of the United States if the date requiring the submission of such final proof by any such entryman under existing law falls within the period beginning July 1, 1931, and ending December 31, 1933: *Provided*, That any such entryman shall be required to show that it is a hardship upon himself to meet the requirements incident to final proof upon the date required by existing law, due to adverse weather or economic conditions.

[SEC. 2. The Secretary of the Interior is authorized to make such rules and regulations as are necessary to carry out the purposes of this Act.]

Section 1 of the Act of March 1, 1933

AN ACT

To permanently set aside certain lands in Utah as an addition to the Navajo Indian Reservation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all vacant, unreserved, and undisposed of public lands within the areas in the southern part

of the State of Utah, bounded as follows: Beginning at a point where the San Juan River intersects the one hundred and tenth degree of west longitude; thence down said river to its confluence with the Colorado River; thence down the Colorado River to a point where said river crosses the boundary line between Utah and Arizona; thence east along said boundary line to the one hundred and tenth degree of west longitude; thence north to the place of beginning; also beginning at a point where the west rim of Montezuma Creek or wash intersects the north boundary line of the Navajo Indian Reservation in Utah; thence northerly along the western rim of said creek or wash to a point where it intersects the section line running east and west between sections 23 and 26, township 39 south, range 24 east, Salt Lake base and meridian in Utah; thence eastward along said section line to the northeast section corner of section 26, township 39 south, range 25 east; thence south one mile along the section line between sections 25 and 26 to the southeast section corner of section 26, township 39 south, range 25 east; thence eastward along the section line between sections 25 and 36, township 39 south, range 25 east, extending through township 39 south, range 26 east, to its intersection with the boundary line between Utah and Colorado; thence south along said boundary line to its intersection with the north boundary line of the Navajo Indian Reservation; thence in a westerly direction along the north boundary line of said reservation to the point of beginning be, and the same are hereby, permanently withdrawn from all forms of entry or disposal for the benefit of the Navajo and such other Indians as the Secretary of the Interior may see fit to settle thereon: [*Provided*, That no further allotments of lands to Indians on the public domain shall be made in San Juan County, Utah, nor shall further Indian homesteads be made in said county under the Act of July 4, 1884 (23 Stat. 96; U.S.C., title 43, sec. 190).] Should oil or gas be produced in paying quantities within the lands hereby added to the Navajo Reservation, 37½ per centum of the net royalties accruing therefrom derived from tribal leases shall be paid to the State of Utah: *Provided*, That said 37½ per centum of said royalties shall be expended by the State of Utah in the tuition of Indian children in white schools and/or in the building or maintenance of roads across the lands described in section 1 hereof, or for the benefit of the Indians residing therein.

Act of March 3, 1933

[AN ACT

[To allow credit in connection with homestead entries to widows of persons who served in certain Indian wars.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the provisions and limitations of the Act entitled "An Act to allow credit to homestead settlers and entrymen for military service in certain Indian wars," approved April 7, 1930, are hereby extended to the widow of any person who would be entitled to make homestead entry or settlement and receive credit in connection therewith for military service under the provisions of such Act, if such widow is unmarried and otherwise qualified to make entry of public lands under the provisions

of the homestead laws of the United States and has heretofore made or shall hereafter make such entry: *Provided*, That in the event of the death of any such widow prior to perfection of title, leaving only a minor child or children, patent shall issue to the said minor child or children upon proof of death, and of the minority of the child or children, without further showing or compliance with law.]

Act of May 21, 1934

[AN ACT

[Granting a leave of absence to settlers of homestead lands during the years 1932, 1933, and 1934.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That any homestead settler or entryman who, during the calendar years 1932 or 1933, found it necessary, or during 1934 should find it necessary, because of economic conditions, to leave his homestead to seek employment in order to obtain the necessaries of life for himself and/or family or to provide for the education of his children, may, upon filing with the register of the district his affidavits, supported by corroborating affidavits of two disinterested persons, showing the necessity of such absence, be excused from compliance with the requirements of the homestead laws as to residence, cultivation, improvements, expenditures, or payment of purchase money as the case may be, during all or any part of the calendar years 1932, 1933, and 1934, and said entries shall not be open to contest or protest because of failure to comply with such requirements during such absence; except that the time of such absence shall not be deducted from the actual residence required by law, but a period equal to such absence shall be added to the statutory life of the entry: *Provided*, That any entryman holding an unperfected entry on ceded Indian lands may be excused from the requirements of residence upon the conditions provided herein, but shall not be entitled to extension of time for the payment of any installment of the purchase price of the land except upon payment of interest, in advance, at the rate of 4 per centum per annum on the principal of any unpaid purchase price from the date when such payment or payments became due to and inclusive of the date of the expiration of the period of relief granted hereunder.]

Act of June 21, 1934

[AN ACT

[To restore homestead rights in certain cases.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That hereafter any person who has heretofore made entry under the homestead laws on any lands embraced within any reservation ceded to the United States by the Indian tribes, and has paid for his land the sum of at least $1.25 per acre, shall, upon proof of such facts, if otherwise qualified, be entitled to the benefit of the homestead law as though

such former entry had not been made; but the provisions of this Act shall not apply to any person who has failed to pay the full price for his former entry or whose former entry was canceled for fraud: *Provided*, That, in making any new homestead entry as authorized by this Act or the prior similar Acts of February 20, 1917 (39 Stat. 926), and February 25, 1925 (43 Stat. 981), such entry shall not include any land to which the Indian title shall not have been fully extinguished.]

Act of May 22, 1935

[AN ACT

[Granting a leave of absence to settlers of homestead lands during the year 1935

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That any homestead settler or entryman who, during the calendar year 1935, should find it necessary, because of economic conditions, to leave his homestead to seek employment in order to obtain the necessaries of life for himself and family or to provide for the education of his children may, upon filing with the register of the district, his affidavit, supported by corroborating affidavits of two disinterested persons showing the necessity of such absence, be excused from compliance with the requirements of the homestead laws as to residence, cultivation, improvements, expenditures, or payment of purchase money, as the case may be, during all or any part of the calendar year 1935, and said entries shall not be open to contest or protest because of failure to comply with such requirements during such absence; except that the time of such absence shall not be deducted from the actual residence required by law, but a period equal to such absence shall be added to the statutory life of the entry: *Provided*, That any entryman holding an unperfected entry on ceded Indian lands may be excused from the requirements of residence upon the conditions provided herein, but shall not be entitled to extension of time for the payment of any installment of the purchase price of the land except upon proof satisfactory to the Secretary of the Interior that the entryman is acting in good faith and is financially unable to make the payments due, and upon payment of interest, in advance, at the rate of 4 per centum per annum on the principal of any unpaid purchase price from the date when such payment or payments became due to and inclusive of the date of the expiration of the period of relief granted hereunder.]

Act of August 19, 1935

[AN ACT

[To eliminate the requirement of cultivation in connection with certain homestead entries.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That, exclusive of Alaska, the provisions of the homestead laws requiring cultivation of

the land entered shall not be applicable to existing homestead entries made prior to February 5, 1935, or thereafter if based upon valid settlement prior to said date, and no patent shall be withheld for failure to cultivate such lands: *Provided*, That this Act shall not be construed to affect any provision of law requiring the cultivation of lands subject to the reclamation laws, nor to apply to entries made under the Forest Homestead Act of June 11, 1906 (34 Stat. 233).]

Act of August 27, 1935

[AN ACT

[To authorize certain homestead entrymen who are disabled World War veterans to make final proof of their entries, and for other purposes.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That any entryman under the homestead laws of the United States who on or after April 6, 1917, and prior to November 12, 1918, enlisted or was a member of the United States Army, Navy, or Marine Corps during the war with Germany, who was honorably discharged from such service, whose entry was made prior to January 1, 1935, and who because of physical or mental disabilities has been or may hereafter become unable to perform the prescribed residential and improvement and other requirements may make proof without further residence, improvement, or cultivation, at such time and place as may be authorized and under such regulations to be issued by the Secretary of the Interior, and receive patent to the land by him so entered upon.]

Act of April 20, 1936

[AN ACT

[Granting a leave of absence to settlers of homestead lands during the year 1936.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That any homestead settler or entryman who, during the calendar year 1936 should find it necessary, because of economic conditions, to leave his homestead to seek employment in order to obtain the necessaries of life for himself or family or to provide for the education of his children, may, upon filing with the register of the district his affidavit, supported by corroborating affidavits of two disinterested persons, showing the necessity of such absence, be excused from compliance with the requirements of the homestead laws as to residence, cultivation, improvements, expenditures, or payment of purchase money, as the case may be, during all or any part of the calendar year 1936, and said entries shall not be open to contest or protest because of failure to comply with such requirements during such absence; except that the time of such absence shall not be deducted from the actual residence required by law, but a period equal to such absence shall be added to the statutory life of the entry: *Provided*, That any entryman holding an unperfected entry on ceded Indian lands may

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be excused from the requirements of residence upon the conditions provided herein, but shall not be entitled to extension of time for the payment of any installment of the purchase price of the land except upon payment of interest, in advance, at the rate of 4 per centum per annum on the principal of any unpaid purchase price from the date when such payment or payments became due to and inclusive of the date of the expiration of the period of relief granted hereunder.

[SEC. 2. Any homestead settler or entryman, including any entryman on ceded Indian lands, who is unable to make the payments due on the purchase price of his land on account of economic conditions, shall be excused from making any such payment during the calendar year 1936 upon payment of interest, in advance, at the rate of 4 per centum per annum on the principal of any unpaid purchase price from the date when such payment or payments became due to and inclusive of the date of the expiration of the period of relief granted hereunder.]

Section 3 of the Act of August 28, 1937

[SEC. 3. The Secretary of the Interior is authorized to classify, either on application or otherwise, and restore to homestead entry, or purchase under the provisions of section 14 of the Act of June 28, 1934 (48 Stat. 1269), any of such revested or reconveyed land which, in his judgment, is more suitable for agricultural use than for afforestation, reforestation, stream-flow protection, recreation, or other public purposes.

[Any of said lands heretofore classified as agricultural may be reclassified as timber lands, if found, upon examination, to be more suitable for the production of trees than agricultural use, such reclassified timber lands to be managed for permanent forest production as herein provided.]

Act of September 27, 1944

[AN ACT

[To allow credit in connection with certain homestead entries for military or naval service rendered during World War II.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That any person who has served in the military or naval forces of the United States for a period of at least ninety days at any time on or after September 16, 1940, and prior to the termination of the Korean conflict as determined by Presidential proclamation or concurrent resolution of the Congress, and is honorably discharged from the military or naval forces and who makes homestead entry subsequent to such discharge shall have the period of such service, not exceeding two years, construed to be equivalent to residence and cultivation upon the land for the same length of time. Credit shall be allowed for two years' service to any person who has served in the military or naval forces of the United States during the above period (1) if such person is discharged

on account of wounds received or disability incurred during the above period in the line of duty, or (2) if such person is regularly discharged and subsequently is furnished hospitalization or is awarded compensation by the Government on account of such wounds or disability. When the homestead entry is made by a husband or wife whose spouse is entitled to any service credit under this section, such credit shall, with the consent of the spouse entitled thereto, be available to the husband or wife making the entry, in addition to any service credit to which he or she individually may be entitled under this section. No patent shall issue to any such person who has not resided upon his homestead and otherwise complied with the provisions of the homestead laws for a period of at least one year: *Provided*, That such compliance shall include bona fide cultivation of at least one-eighth of the area entered under the homestead laws: *Provided further*, That no person who has served in the military or naval forces of the United States for a period of at least ninety days at any time on or after September 16, 1940, and prior to the termination of the Korean conflict as determined by Presidential proclamation or concurrent resolution of the Congress, and is honorably discharged shall be disqualified from making homestead entry or from any other benefits of this Act merely by reason of not having reached the age of twenty-one years.

[SEC. 2. The surviving spouse or the minor children, as hereinafter provided, shall be entitled (1) in case of the death of any person as the result of wounds received or disability incurred in line of duty while serving in the military or naval forces of the United States during the period specified in section 1, to credit for two years' residence and cultivation on a homestead entry, or (2) in the case of the death of any person after performing service that would be a basis for credit under section 1 of this Act, to the amount of credit which would have been allowable to such person. The credit provided by this section shall be available to the surviving spouse, or, in the case of the death or marriage of the surviving spouse, to the minor children by a guardian duly appointed and officially accredited at the Department of the Interior. An entry made by such surviving spouse or guardian shall be subject to the provisions contained in section 1 respecting compliance with the provisions of the homestead laws for a period of at least one year.

[SEC. 3. Where a person entitled to the benefits of section 1 or 2 of this Act makes homestead entry and dies before completing title, leaving a minor orphan child, or minor orphan children, patent shall issue to such minor or minors upon proof showing such facts, without any proof as to compliance with the law in the matter of residence, cultivation, or improvements.

[SEC. 4. For the period of fifteen years following September 27, 1944, on the revocation of any order of withdrawal or the filing of a plat of survey or resurvey opening lands to entry, the order or notice taking such action shall provide for a period of not less than ninety days before the date on which it otherwise becomes effective, in which persons of the classes entitled to credit for service, under the provisions of this Act, shall have a preferred right of application under the homestead or desert land laws, or the Small Tract Act of June 1, 1938 (52 Stat. 609), as amended (59 Stat. 467, 43 U.S.C., sec. 682a),

subject to the requirements of applicable law, except as against the prior existing valid settlement rights and preference rights conferred by existing laws or as against equitable claims subject to allowance and confirmation, and except where a revocation of an order of withdrawal is made in order to assist in a Federal land program other than one authorized by the homestead or desert land laws or by said Small Tract Act of June 1, 1938, as amended. During the same period if the Secretary of the Interior shall, without a prior petition therefor, classify any land as being suitable for disposition under the said Small Tract Act of June 1, 1938, as amended, the order of classification shall provide a similar preference right of application under that Act, subject to the exceptions contained in this section.]

Sections 1 and 2 of the Act of June 22, 1948

[AN ACT

[To extend the public-land laws of the United States to certain lands, consisting of islands, situated in the Red River in Oklahoma.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [That the public-land laws of the United States be, and the same are hereby, extended to the public lands in that part of the Red River between the medial line and the south bank of the river, in Oklahoma, between the ninety-eighth meridian and the east boundary of the territory established as Greer County by the Act of May 4, 1896 (29 Stat. 113): *Provided,* That such lands shall not be subject to disposition, settlement, or occupation until after the same have been classified and opened to entry, and other disposal by the Secretary of the Interior according to law.

[SEC. 2. The Secretary of the Interior is hereby authorized and directed to recognize equitable claims to such lands based on settlement made prior to January 1, 1934, and all homestead entries of such lands, the allowance of which was erroneous because the lands were not subject to entry, and all suspended entries and applications to make final proof, are hereby validated if otherwise regular, as of the date of the regular application.]

Act of July 30, 1956

[AN ACT

[To grant leaves of absence to homestead entrymen and to permit suspension of cultivation and improvement operations on homestead and desert land entries, and for other purposes.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That any person who holds a homestead entry on public lands which was allowed and subsisting on March 1, 1956, or which, based on an application on file on March 1, 1956, was allowed and subsisting on the date of approval of this Act, is hereby granted leave of absence from the lands until March 1, 1959, and any person who holds a homestead or desert land

entry which was allowed and subsisting on March 1, 1956, or which, based on an application on file on March 1, 1956, was allowed and subsisting on the date of approval of this Act, is hereby granted permission to suspend until March 1, 1959, further operations looking to the cultivation and improvement of the lands: *Provided*, That such entryman shall forfeit no rights and shall not otherwise be excused from full compliance with the applicable public land laws by reason of such absence or of such suspension of cultivation and improvement operations: *And provided further*, That the rights of such entrymen shall not be protected by this Act unless they file with the land office having jurisdiction over the area in which the land is located, (a) a notice of their intention to absent themselves from the land or to suspend cultivation and improvement operations and accompanying such notice information as to location and extent of present cultivation or improvement placed on the entry, and (b) a grant to the United States, for itself and for its lessees, licensees, and permittees, of a right to enter upon and occupy the lands which have not been prepared for cultivation or which have not had improvements placed on them, without recourse, for any purpose authorized by the public land laws, except that such grant need not include a right to construct permanent improvements on the land or to permit a substantial change in its character.

[SEC. 2. Any person who on March 1, 1956, had on file a homestead or desert land application which application shall be allowed on its merits subsequent to enactment of this Act and prior to March 1, 1959, shall not be required to enter upon the lands and commence residence thereon, or cultivate and improve the lands prior to March 1, 1959: *Provided*, That said person files with the land offices having jurisdiction over the area in which the land is located, (a) within sixty days after the date of allowance of his entry, a notice of his intention to delay initiation of his residence, cultivation, or improvements, and (b) at least ninety days prior to initiation of his residence, cultivation, or improvements, a notice of his intention to initiate said activity. For the purposes of the homestead and desert land laws, March 1, 1959, may be treated as the date of the entry, if an actual entry has not been made prior to that date. If an actual entry is made prior to March 1, 1959, the date of such actual entry shall be the date of entry for the purposes of the homestead and desert land laws. Until an actual entry by a person subject to the provisions of this section has been made, or until March 1, 1959, whichever first occurs, the United States, for itself and for its lessees, permittees, and licensees, shall retain the right to enter upon and occupy the lands in each such entry, without recourse, for any purpose authorized by the public land laws: *Provided*, That the United States, its lessees, permittees, and licensees, shall not construct permanent improvements on the lands or otherwise substantially change such lands in their character.

[SEC. 3. Notwithstanding any other provision of the desert land laws, the property right prior to issuance of patent to the lands in his desert land entry of an entryman who elects to suspend cultivation and improvement operations in accordance with section 1 of this Act and of an entryman whose entry is allowed in accordance with section 2 of this Act shall be a personal right, inheritable but not assignable.

[SEC. 4. This Act shall apply only to applications filed for, or entries made on, public lands in the continental United States, exclusive of Alaska, pursuant to the Act of May 20, 1862 (12 Stat. 392; 43 U.S.C., ch. 7), as amended and supplemented, and pursuant to Act of March 3, 1877 (19 Stat. 377; 43 U.S.C., ch. 9), as amended and supplemented. Nothing in this Act shall apply to applications filed for, or entries made on, public lands purusuant to the Act of June 17, 1902 (32 Stat 388; 43 U.S.C., ch. 12), as amended and supplemented.]

2.—SALE AND DISPOSAL LAWS

REVISED STATUTES OF THE UNITED STATES

[SEC. 2354. All the public lands, when offered at private sale, may be purchased, at the option of the purchaser, in entire sections, half-sections, quarter-sections, half quarter-sections, or quarter quarter-sections.

[SEC. 2355. Every person making application at any of the land-offices of the United States for the purchase at private sale of a tract of land shall produce to the register a memorandum in writing, describing the tract, which he shall enter by the proper number of the section, half-section, quarter-section, half quarter-section, or quarter quarter-section, as the case may be, and of the township and range, subscribing his name thereto, which memorandum the register shall file and preserve in his office.]

* * * * * * *

[SEC. 2357. The price at which the public lands are offered for sale shall be one dollar and twenty-five cents an acre; and at every public sale, the highest bidder, who makes payment as provided in the preceding section, shall be the purchaser; but no land shall be sold, either at public or private sale, for a less price than one dollar and twenty-five cents an acre; and all the public lands which are hereafter offered at public sale, according to law, and remain unsold at the close of such public sales, shall be subject to be sold at private sale, by entry at the land-office, at one dollar and twenty-five cents an acre, to be paid at the time of making such entry: *Provided*, That the price to be paid for alternate reserved lands, along the line of railroads within the limits granted by any act of Congress, shall be two dollars and fifty cents per acre.]

* * * * * * *

[SEC. 2361. Where two or more persons have become purchasers of a section or fractional section, the register of the land-office of the district in which the lands lie shall, on application of the parties, and a surrender of the original certificate, issue separate certificates, of the same date with the original, to each of the purchasers, or their assignees, in conformity with the division agreed on by them; but in no case shall the fractions so purchased be divided by other than north and south, or east and west, lines; nor shall any certificate issue for less than eighty acres.

[SEC. 2362. The Secretary of the Interior is authorized, upon proof being made, to his satisfaction, that any tract of land has been erroneously sold by the United States, so that from any cause the sale cannot

be confirmed, to repay to the purchaser, or to his legal representatives or assignees, the sum of money which was paid therefor, out of any money in the Treasury not otherwise appropriated.

[SEC. 2363. Where any tract of land has been erroneously sold, as described in the preceding section, and the money which was paid for the same has been invested in any stocks held in trust, or has been paid into the Treasury to the credit of any trust-fund, it is lawful, by the sale of such portion of the stocks as may be necessary for the purpose, or out of such trust-fund, to repay the purchase-money to the parties entitled thereto.]

* * * * * * *

[SEC. 2365. Where two or more persons apply for the purchase, at private sale, of the same tract, at the same time, the register shall determine the preference, by forthwith offering the tract to the highest bidder.

[SEC. 2366. The gold coins of Great Britain and other foreign coins shall be received in all payments on account of public lands, at the value estimated annually by the Director of the Mint, and proclaimed by the Secretary of the Treasury, in accordance with the provisions of section thirty-five hundred and sixty-four, Title, "THE COINAGE."]

* * * * * * *

[SEC. 2368. The Secretary of the Interior is authorized to permit the purchase, with cash or military bounty-land warrants, of such lands as may have been located with claims arising under the seventh clause of the second article of the treaty of September thirty, eighteen hundred and fifty-four, at such price per acre as he deems equitable and proper, but not at a less price than one dollar and twenty-five cents per acre, and the owners and holders of such claims in good faith are also permitted to complete their entries, and to perfect their titles under such claims upon compliance with the terms above mentioned; but it must be shown to the satisfaction of the Secretary of the Interior that such claims are held by innocent parties in good faith, and that the locations made under such claims have been made in good faith and by innocent holders of the same.

[SEC. 2369. In every case of a purchaser of public lands, at private sale, having entered at the land-office, a tract different from that he intended to purchase, and being desirous of having the error in his entry corrected, he shall make his application for that purpose to the register of the land-office; and if it appears from testimony satisfactory to the register and receiver, that an error in the entry has been made, and that the same was occasioned by original incorrect marks made by the surveyor, or by the obliteration or change of the original marks and numbers at corners of the tract of land; or that it has in any otherwise arisen from mistake or error of the surveyor, or officers of the land-office, the register and receiver shall report the case, with the testimony, and their opinion thereon, to the Secretary of the Interior, who is authorized to direct that the purchaser is at liberty to withdraw the entry so erroneously made, and that the moneys which have been paid shall be applied in the purchase of other lands in the same district, or credited in the payment for other lands which have been purchased at the same office.

[SEC. 2370. The provisions of the preceding section are declared to extend to all cases where patents have issued or may hereafter issue; upon condition, however, that the party concerned surrenders his patent to the Commissioner of the General Land-Office, with a relinquishment of title thereon, executed in a form to be prescribed by the Secretary of the Interior.

[SEC. 2371. The provisions of the two preceding sections are made applicable in all respects to errors in the location of land-warrants.

[SEC. 2372. In all cases of an entry hereafter made, of a tract of land not intended to be entered, by a mistake of the true numbers of the tract intended to be entered, where the tract, thus erroneously entered, does not, in quantity, exceed one half-section, and where the certificate of the original purchaser has not been assigned, or his right in any way transferred, the purchaser, or, in case of his death, the legal representatives, not being assignees or transferees, may, in any case coming within the provisions of this section, file his own affidavit, with such additional evidence as can be procured, showing the mistake of the numbers of the tract intended to be entered, and that every reasonable precaution and exertion had been used to avoid the error, with the register and receiver of the land-district within which such tract of land is situated, who shall transmit the evidence submitted to them in each case, together with their written opinion, both as to the existence of the mistake and the credibility of each person testifying thereto, to the Commissioner of the General Land-Office, who, if he be entirely satisfied that the mistake has been made, and that every reasonable precaution and exertion had been made to avoid it, is authorized to change the entry, and transfer the payment from the tract erroneously entered, to that intended to be entered, if unsold; but, if sold, to any other tract liable to entry; but the oath of the person interested shall in no case be deemed sufficient, in the absence of other corroborating testimony, to authorize any such change of entry; nor shall anything herein contained affect the right of third persons.]

* * * * * * *

[SEC. 2374. If any person before, or at the time of the public sale of any of the lands of the United States, enters into any contract, bargain, agreement, or secret understanding with any other person, proposing to purchase such land, to pay or give to such purchasers for such land a sum of money or other article of property, over and above the price at which the land is bid off by such purchasers, every such contract, bargain, agreement, or secret understanding, and every bond obligation, or writing of any kind whatsoever, founded upon or growing out of the same, shall be utterly null and void.

[SEC. 2375. Every person being a party to such contract, bargain, agreement, or secret understanding, who pays to such purchaser any sum of money or other article of value, over and above the purchase-money of such land, may sue for and recover such excess from such purchaser in any court having jurisdiction of the same.

[SEC. 2376. If the party aggrieved have no legal evidence of such contract, bargain, agreement, or secret understanding, or of the payment of the excess, he may, by bill in equity, compel such purchaser to make discovery thereof; and if in such case the complainant shall ask for relief, the court in which the bill is pending may proceed to final decree between the parties to the same; but every such suit

either in law or equity shall be commenced within six years next after the sale of such land by the United States.]

Sections 3 and 4 of the Act of June 15, 1880

* * * * * * *

[SEC. 3. That the price of lands now subject to entry which were raised to two dollars and fifty cents per acre, and put in market prior to January, eighteen hundred and sixty one, by reason of the grant of alternate sections for railroad purposes is hereby reduced to one dollar and twenty-five cents per acre.

[SEC. 4. This act shall not apply to any of the mineral lands of the United States; and no person who shall be prosecuted for or proceeded against on account of any trespass committed or material taken from any of the public lands after March first, eighteen hundred and seventy-nine shall be entitled to the benefit thereof.]

Sections 9 and 16 of the Act of March 3, 1891

[SEC. 9. That hereafter no public lands of the United States, except abandoned military or other reservations, isolated and disconnected fractional tracts authorized to be sold by section twenty-four hundred and fifty-five of the Revised Statutes, and mineral and other lands the sale of which at public auction has been authorized by acts of Congress of a special nature having local application, shall be sold at public sale.]

[SEC. 16. That town-site entries may be made by incorporated towns and cities on the mineral lands of the United States, but no title shall be acquired by such towns or cities to any vein of gold, silver, cinnabar, copper, or lead, or to any valid mining claim or possession held under existing law. When mineral veins are possessed within the limits of an incorporated town or city, and such possession is recognized by local authority or by the laws of the United States, the title to town lots shall be subject to such recognized possession and the necessary use thereof and when entry has been made or patent issued for such town sites to such incorporated town or city, the possessor of such mineral vein may enter and receive patent for such mineral vein, and the surface ground appertaining thereto: *Provided*, That no entry shall be made by such mineral-vein claimant for surface ground where the owner or occupier of the surface ground shall have had possession of the same before the inception of the title of the mineral-vein applicant.]

Section 2 of the Act of March 18, 1898

[SEC. 2. That all public lands within the State of Missouri shall hereafter be subject to disposal at private sale in the manner now provided by law for the sale of lands which have been publicly offered for sale, whether such lands have ever been offered at public sale or not: *Provided*, That the actual settlers shall have a preference right, under such rules and regulations as the Secretary of the Interior may prescribe.]

Act of March 1, 1907

[AN ACT

[To authorize the sale of public lands for cemetery purposes.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, authorized to sell and convey to any religious or fraternal association, or private corporation, empowered by the laws under which such corporation or association is organized or incorporated to hold real estate for cemetery purposes, not to exceed eighty acres of any unappropriated nonmineral public lands of the United States for cemetery purposes, upon the payment therefor by such corporation or association of the sum of not less than one dollar and twenty-five cents per acre: *Provided,* That title to any land disposed of under the provisions of this Act shall revert to the United States, should the land or any part thereof be sold or cease to be used for the purpose herein provided.]

3.—TOWN SITE RESERVATION AND SALE

REVISED STATUTES OF THE UNITED STATES

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[SEC. 2380. The President is authorized to reserve from the public lands, whether surveyed or unsurveyed, town-sites on the shores of harbors, at the junction of rivers, important portages, or any natural or prospective centers of population.

[SEC. 2381. When, in the opinion of the President, the public interests require it, it shall be the duty of the Secretary of the Interior to cause any of such reservations, or part thereof, to be surveyed into urban or suburban lots of suitable size, and to fix by appraisement of disinterested persons their cash value, and to offer the same for sale at public outcry to the highest bidder, and thence afterward to be held subject to sale at private entry according to such regulations as the Secretary of the Interior may prescribe; but no lot shall be disposed of at public sale or private entry for less than the appraised value thereof. And all such sales shall be conducted by the register and receiver of the land-office in the district in which the reservations may be situated, in accordance with the instructions of the Commissioner of the General Land-Office.

[SEC. 2382. In any case in which parties have already founded, or may hereafter desire to found, a city or town on the public lands, it may be lawful for them to cause to be filed with the recorder for the county in which the same is situated, a plat thereof, for not exceeding six hundred and forty acres, describing its exterior boundaries according to the lines of the public surveys, where such surveys have been executed; also giving the name of such city or town, and exhibiting the streets, squares, blocks, lots, and alleys, the size of the same, with measurements and area of each municipal subdivision, the lots in which shall each not exceed four thousand two hundred square feet, with a statement of the extent and general character of the improve-

ments; such map and statement to be verified under oath by the party acting for and in behalf of the persons proposing to establish such city or town; and within one month after such filing there shall be transmitted to the General Land-Office a verified transcript of such map and statement, accompanied by the testimony of two witnesses that such city or town has been established in good faith, and when the premises are within the limits of an organized land-district, a similar map and statement shall be filed with the register and receiver, and at any time after the filing of such map, statement, and testimony in the General Land-Office it may be lawful for the President to cause the lots embraced within the limits of such city or town to be offered at public sale to the highest bidder, subject to a minimum of ten dollars for each lot; and such lots as may not be disposed of at public sale shall thereafter be liable to private entry at such minimum, or at such reasonable increase or diminution thereafter as the Secretary of the Interior may order from time to time, after at least three months' notice, in view of the increase or decrease in the value of the municipal property. But any actual settler upon any one lot, as above provided, and upon any additional lot in which he may have substantial improvements shall be entitled to prove up and purchase the same as a pre-emption, at such minimum, at any time before the day fixed for the public sale.

[SEC. 2383. When such cities or towns are established upon unsurveyed lands, it may be lawful, after the extension thereto of the public surveys, to adjust the extension limits of the premises according to those lines, where it can be done without interference with rights which may be vested by sale; and patents for all lots so disposed of at public or private sale shall issue as in ordinary cases.

[SEC. 2384. If within twelve months from the establishment of a city or town on the public domain, the parties interested refuse or fail to file in the General Land-Office a transcript map, with the statement and testimony called for by the provisions of section twenty-three hundred and eighty-two, it may be lawful for the Secretary of the Interior to cause a survey and plat to be made of such city or town, and thereafter the lots in the same shall be disposed of as required by such provisions, with this exception, that they shall each be at an increase of fifty per centum on the minimum of ten dollars per lot.]

* * * * * * *

[SEC. 2386. Where mineral veins are possessed, which possession is recognized by local authority, and to the extent so possessed and recognized, the title to town-lots to be acquired shall be subject to such recognized possession and the necessary use thereof; but nothing contained in this section shall be so construed as to recognize any color of title in possessors for mining purposes as against the United States.

[SEC. 2387. Whenever any portion of the public lands have been or may be settled upon and occupied as a town-site, not subject to entry under the agricultural pre-emption laws, it is lawful, in case such town be incorporated, for the corporate authorities thereof, and, if not incorporated, for the judge of the county court for the county in which such town is situated, to enter at the proper land-office, and at the minimum

price, the land so settled and occupied in trust for the several use and benefit of the occupants thereof, according to their respective interests; the execution of which trust, as to the disposal of the lots in such town, and the proceeds of the sales thereof, to be conducted under such regulations as may be prescribed by the legislative authority of the State or Territory in which the same may be situated.

[SEC. 2388. The entry of the land provided for in the preceding section shall be made, or a declaratory statement of the purpose of the inhabitants to enter it as a town-site shall be filed with the register of the proper land-office, prior to the commencement of the public sale of the body of land in which it is included, and the entry or declaratory statement shall include only such land as is actually occupied by the town, and the title to which is in the United States; but in any Territory in which a land-office may not have been established, such declaratory statements may be filed with the surveyor-general of the surveying-district in which the lands are situated; who shall transmit the same to the General Land-Office.

[SEC. 2389. If upon surveyed lands, the entry shall in its exterior limit be made in conformity to the legal subdivisions of the public lands authorized by law; and where the inhibitants are in number one hundred, and less than two hundred, shall embrace not exceeding three hundred and twenty acres; and in cases where the inhibitants of such town are more than two hundred, and less than one thousand, shall embrace not exceeding six hundred and forty acres; and where the number of inhabitants is one thousand and over one thousand, shall embrace not exceeding twelve hundred and eighty acres; but for each additional one thousand inhibitants, not exceeding five thousand in all, a further grant of three hundred and twenty acres shall be allowed.]

* * * * * * *

[SEC. 2391. Any act of the trustees not made in conformity to the regulations alluded to in section twenty-three hundred and eighty-seven shall be void.

[SEC. 2392. No title shall be acquired, under the foregoing provisions of this chapter, to any mine of gold, silver, cinnabar, or copper; or to any valid mining claim or possession held under existing laws.

[SEC. 2393. The provisions of this chapter shall not apply to military or other reservations heretofore made by the United States, nor to reservations for light-houses, custom-houses, mints, or such other public purposes as the interests of the United States may require, whether held under reservations through the Land-Office by title derived from the Crown of Spain, or otherwise.

[SEC. 2394. The inhabitants of any town located on the public lands may avail themselves, if the town authorities choose to do so, of the provisions of sections twenty-three hundred and eighty-seven, twenty-three hundred and eighty-eight, and twenty-three hundred and eighty-nine; and in addition to the minimum price of the lands embracing any town-site so entered, there shall be paid by the parties availing themselves of such provisions all costs of surveying and platting any such town-site, and expenses incident thereto incurred by the United States, before any patent issues therefor; but nothing contained in the sections herein cited shall prevent the issuance of patents to persons who have made or may hereafter make entries, and elect to proceed under other laws relative to town-sites in this chapter set forth.]

* * * * * * *

Act of March 3, 1877

* * * * * * *

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [That the existence or incorporation of any town upon the public lands of the United States shall not be held to exclude from pre-emption or homestead entry a greater quantity than twenty-five hundred and sixty acres of land, or the maximum area which may be entered as a town-site under existing laws, unless the entire tract claimed or incorporated as such town-site shall, including and in excess of the area above specified, be actually settled upon, inhabited, improved, and used for business and municipal purposes.]

* * * * * * *

[SEC. 3. That whenever the corporate limits of any town upon the public domain are shown or alleged to include lands in excess of the maximum area specified in section one of this act, the Commissioner of the General Land Office may require the authorities of such town, and it shall be lawful for them, to elect what portion of said lands, in compact form and embracing the actual site of the municipal occupation and improvement, shall be withheld from pre-emption and homestead entry; and thereafter the residue of such lands shall be open to disposal under the homestead and pre-emption laws. And upon default of said town authorities to make such selection within sixty days after notification by the Commissioner, he may direct testimony respecting the actual location and extent of said improvements, to be taken by the register and receiver of the district in which such town may be situated; and, upon receipt of the same, he may determine and set off the proper site according to section one of this act, and declare the remaining lands open to settlement and entry under the homestead and pre-emption laws; and it shall be the duty of the secretary of each of the Territories of the United States to furnish the surveyor-general of the Territory for the use of the United States a copy duly certified of every act of the legislature of the Territory incorporating any city or town, the same to be forwarded by such secretary to the surveyor-general within one month from date of its approval.

[SEC. 4. It shall be lawful for any town which has made, or may hereafter make entry of less than the maximum quantity of land named in section twenty-three hundred and eighty-nine of the Revised Statutes to make such additional entry, or entries, of contiguous tracts, which may be occupied for town purposes as when added to the entry or entries therefore made will not exceed twenty-five hundred and sixty acres: *Provided,* That such additional entry shall not together with all prior entries be in excess of the area to which the town may be entitled at date of the additional entry by virtue of its population as prescribed in said section twenty-three hundred and eighty-nine.]

* * * * * * *

Section 16 of the Act of March 3, 1891

[SEC. 16. That town-site entries may be made by incorporated towns and cities on the mineral lands of the United States, but no

title shall be acquired by such towns or cities to any vein of gold, silver, cinnabar, copper, or lead, or to any valid mining claim or possession held under existing law. When mineral veins are possessed within the limits of an incorporated town or city, and such possession is recognized by local authority or by the laws of the United States, the title to town lots shall be subject to such recognized possession and the necessary use thereof and when entry has been made or patent issued for such town sites to such incorporated town or city, the possessor of such mineral vein may enter and receive patent for such mineral vein, and the surface ground appertaining thereto: *Provided,* That no entry shall be made by such mineral-vein claimant for surface ground where the owner or occupier of the surface ground shall have had possession of the same before the inception of the title of the mineral-vein applicant.]

Act of February 9, 1903

[AN ACT

[To extend the provisions of chapter eight, title thirty-two, of the Revised Statutes of the United States, entitled "Reservation and sale of town sites on the public lands," to the ceded Indian lands in the State of Minnesota.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That chapter eight, title thirty-two, of the Revised Statutes of the United States, entitled "Reservation and sale of town sites on the public lands," be, and is hereby, extended to and declared to be applicable to ceded Indian lands within the State of Minnesota. This Act shall take effect and be in force from and after its passage.]

Act of July 9, 1914

[AN ACT

[Providing for the issuance of patents to transferees of town lots purchased from the United States at public sale in certain cases.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That in all cases where town lots were sold by the United States at public sale, and the purchaser at such sale had transferred his interest in any such lot prior to the eleventh day of October, nineteen hundred and eleven, and patent has not been issued in the name of the original purchaser, the Commissioner of the General Land Office may issue a patent in the name of the transferee where full payment of the purchase price has been made and satisfactory evidence of the transfer has been furnished: *Provided,* That it be shown that the original purchaser is dead, or that after due inquiry his whereabouts cannot be ascertained, and that the instrument of transfer given by the original purchaser has been lost or destroyed.]

4.—DRAINAGE UNDER STATE LAWS

Act of May 20, 1908

* * * * * * *

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [That all lands in the State of Minnesota, when subject to entry, and all entered lands for which no final certificates have issued, are hereby made and declared to be subject to all of the provisions of the laws of said State relating to the drainage of swamp or overflowed lands for agricultural purposes to the same extent and in the same manner in which lands of a like character held in private ownership are or may be subject to said laws: *Provided,* That the United States and all persons legally holding unpatented lands under entries made under the public-land laws of the United States are accorded all the rights, privileges, and benefits given by said laws to persons holding lands of a like character in private ownership.

[SEC. 2. That the cost of constructing canals, ditches, and other drainage works incurred in connection with any drainage project under said laws shall be equitably apportioned among all lands held in private ownership, all lands covered by unpatented entries, and all unentered public lands affected by such project; and officially certified lists showing the amount of the charges assessed against each smallest legal subdivision of such lands shall be furnished to the register and receiver of the land district in which the lands affected are located as soon as said charges are assessed, but nothing in this Act shall be construed as creating any obligation on the United States to pay any of said charges.

[SEC. 3. That all charges legally assessed may be enforced against any unentered lands, or against any lands covered by an unpatented entry, by the sale of such lands subject to the same manner and under the same proceedings under which such charges would be enforced against lands held in private ownership.

[SEC. 4. That when any unentered lands, or any lands covered by an unpatented entry, have been sold in the manner mentioned in this Act, a statement of such sale showing the price at which each legal subsidivision was sold shall be officially certified to the register and receiver immediately after the completion of such sale.

[SEC. 5. That at any time after any sale of unentered lands has been made in the manner and for the purposes mentioned in this Act patent shall issue to the purchaser thereof upon payment to the receiver of the minimum price of one dollar and twenty-five cents per acre, or such other price as may have been fixed by law for such lands, together with the usual fees and commissions charged in entry of like lands under the homestead laws. But purchasers at a sale of unentered lands shall have the qualification of homestead entrymen and not more than one hundred and sixty acres of such lands shall be sold to any one purchaser under the provisions of this Act. This limitation shall not apply to sales to the State but shall apply to purchases from the State of unentered lands bid in for the State. Any part of the purchase money arising from the sale of any lands in the manner and for the purposes provided in this Act which shall be in excess of the payments herein required and of the total drainage charges assessed against such lands shall also be paid to the receiver before patent is issued.

[SEC. 6. That any unpatented lands sold in the manner and for the purposes mentioned in this Act may be patented to the purchaser thereof at any time after the expiration of the period of redemption provided for in the drainage laws under which it may be sold (there having been no redemption) upon the payment to the receiver of the fees and commissions and the price mentioned in the preceding seetion, or so much thereof as has not already been paid by the entryman; and if the sum received at any such sale shall be in excess of the payments herein required and of the drainage assessments and cost of the sale, such excess shall be paid to the proper county officer for the benefit of and payment to the entryman. That unless the purchasers of unentered lands shall within ninety days after the sale provided for in section three, pay to the proper receiver the fees, commissions and purchase price to which the United States may be entitled as provided in section five, and unless the purchasers of entered lands shall within ninety days after the right of redemption has expired make like payments as provided for in this section, any person having the qualifications of a homestead entryman may pay to the proper receiver for not more than one hundred and sixty acres of land for which such payment has not been made: First, the unpaid fees, commissions and purchase price to which the United States may then be entitled: and, second, the sum at which the land was sold at the sale for drainage charges, and in addition thereto, if bid in by the State, interest on the amount bid by the State at the rate of seven per centum per annum from the date of such sale, and thereupon the person making such payment shall become subrogated to the rights of such purchaser to receive a patent for said land. When any payment is made to effect such subrogation the receiver shall transmit to the treasurer of the county where the land is situated the amount at which the land was sold at the sale for drainage charges together with the interest paid thereon, if any, less any sum in excess of what may be due for such drainage charge, if the land when sold was unentered.

[SEC. 7. That a copy of all notices required by the drainage laws mentioned in this Act to be given to the owners or occupants of lands held in private ownership shall, as soon as such notices issue, be delivered to the register and receiver of the proper district land office in cases where unentered lands are affected thereby and to the entrymen whose unpatented lands are included therein, and the United States and such entrymen shall be given the same rights to be heard by petition, answer, remonstrance, appeal, or otherwise as are given to persons holding lands in private ownership; and all entrymen shall be given the same rights of redemption as are given to the owners of lands held in private ownership.]

* * * * * * *

Act of March 3, 1919

[AN ACT

[To validate and confirm certain erroneously allowed entries in the State of Minnesota.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That in all cases where

Chippewa Indian lands in Minnesota, ceded under the Act of Congress approved January fourteenth, eighteen hundred and eighty-nine (Twenty-fifth Statutes at Large, page six hundred and forty-two), were assessed under the State drainage laws prior to the opening of the lands to entry, where the lands were subsequently opened to entry and were thereafter sold under the said drainage laws, and where cash entries for the lands were subsequently made as though authorized by the Act of Congress approved May twentieth, nineteen hundred and eight (Thirty-fifth Statutes at Large, page one hundred and sixty-nine), such erroneously allowed entries, if otherwise regular, be, and the same are hereby, validated and confirmed.]

Act of January 17, 1920

[AN ACT

[Authorizing local drainage districts to drain certain public lands in the State of Arkansas, counties of Mississippi and Poinsett, and subjecting said lands to taxation.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That all of those unentered, unreserved public lands, and all of those entered lands for which no final certificates have been issued, within the areas hereinafter described, are hereby made and declared to be subject to the laws of the State of Arkansas relating to the organization, government, and regulation of drainage districts to be the same extent and in the same manner, except as hereinafter provided, in which lands held under private ownership are or may be subject to said laws: *Provided,* That the United States and all persons legally holding unpatented lands under entries made under the public-land laws of the United States shall be accorded all the rights, privileges, and benefits given by said laws to persons holding lands in private ownership, said lands being those public lands in Mississippi County, Arkansas, in townships fourteen, fifteen, and sixteen north, range nine east, and townships fifteen and sixteen north, range ten east, fifth principal meridian, according to the official surveys thereof approved October 12, 1915, and all of those unentered public lands, and all of those entered lands for which no final certificates have been issued in Poinsett County, Arkansas, in townships eleven and twelve north, range six east, fifth principal meridian, according to the official surveys thereof approved July 30, 1913.

[SEC. 2. That the construction and maintenance of canals, ditches, levees, and other drainage works upon and across the lands subject to the operation of this Act are hereby authorized, subject to the same conditions as are imposed by the laws of the State of Arkansas upon lands held in private ownership, and that the cost of construction and maintenance of canals, ditches, levees, and other drainage works incurred in connection with any drainage project under said laws shall be equitably apportioned among all lands held in private ownership, all unentered public lands, and all lands embraced in unpatented entries affected by such project. Officially certified lists showing the amount of charges assessed against each smallest

legal subdivision of such lands shall be furnished to the register and receiver of the United States land office of the district in which the lands affected are situated as soon as said charges would become a lien if the lands were held in private ownership.

[SEC. 3. That all charges legally assessed pursuant to the drainage laws of the State of Arkansas by a drainage district against any unentered public lands, or against any lands embraced in unpatented entries, subject to the provisions of this Act, shall be a lien upon said lands, which may be enforced by sale in the same manner and subject to the same conditions, except as hereinafter set forth, under which said charges shall be enforced against lands held in private ownership, and whenever any of said lands shall be sold for nonpayment of such charges, inclusive of lands bid in for a drainage district, a statement showing the name of the purchaser, the price at which each legal subdivision was sold, the amount assessed against it, together with penalties and interest, if any, and the cost of the sale, and the amount of excess, if any, over and above all lawful assessment charges and the cost of sale, shall be officially certified to the register and receiver of the United States land office of the district in which the lands are situated immediately after the completion of such sale, but nothing in this Act shall be construed as creating any obligation on the United States to pay any of said charges.

[SEC. 4. That all moneys received from the sale of entered or unentered lands subject to the operation of this Act which shall be in excess of assessments due thereon, together with penalties and interest and the costs of the sales, shall be paid by the proper county officer to the receiver of the United States land office of the district in which the lands are situated, and such excess moneys shall be covered into the United States Treasury as proceeds from the sales of public lands.

[SEC. 5. That at any time within ninety days after the sale of unentered public lands and at any time within ninety days after the expiration of the period of redemption provided for in the drainage laws under which the lands are sold, no redemption having been made, after the sale of lands embraced within unpatented entries, the purchaser at such sale, a drainage district being herein expressly excepted from the operation of this provision, shall, upon the filing of an application therefor and an affidavit containing proof of necessary qualifications with the register and receiver of the United States land office, and upon payment to the receiver of the price of $5 per acre, together with the usual fees and commissions charged in entry of lands under the homestead laws, be entitled to receive a patent: *Provided*, That such purchaser shall have the qualifications required in making entry of lands under the homestead laws, and any such purchase shall exhaust any further homestead right of the puchaser to the extent of the amount of lands thus purchased by him. Not more than one hundred and sixty acres of such lands shall be sold and patented to any one purchaser under the provisions of this Act. This limitation shall not apply to lands subject to the operation of this Act which may be bid in for a drainage district, but no patent shall be issued to a drainage district or to any one bidding in said lands for a drainage district. The proceeds derived by the Government shall be covered into the United States Treasury and applied as

provided by law for the disposal of the proceeds from the sale of public lands,

[SEC. 6. That unless the purchaser shall, within the time specified in section 5 of this Act, file with the register and receiver of the United States land office an application for a patent, together with the required affidavit, and make payment of the purchase price, fees, and commissions as provided in said section 5, any person having the qualifications of an entryman under the homestead laws may file an application for a patent, together with the required affidavit, and upon payment to the receiver of the purchase price of $5 per acre, fees, and commissions, and in addition thereto an amount equal to the drainage charges, penalites, interest, and costs for which the lands were sold, and if the lands were bid in for the drainage district, an additional amount equal to 6 per centum per annum on the sum for which the lands were sold from the date of such sale, said applicant shall become subrogated to the rights of such purchaser and shall be entitled to receive a patent for not more than one hundred and sixty acres of said lands. When payment is made to effect subrogation as herein provided the register and receiver of the United States land office shall serve notice upon the purchaser that an application for patent for the lands purchased by him has been filed, and that the amount of the drainage charges, penalties, interests, and costs of the sale will be paid to him upon submission of proof of purchase and payment by him of said sums. The receiver shall make such payment as soon as said requirement shall have been fulfilled. If the lands were bid in for a drainage district, the receiver will pay to the proper county officers the amount of the drainage charges, penalties, and interests and costs of sale, together with the additional sum of 6 per centum per annum, to which said drainage district is entitled. All remaining moneys to which the United States may be entitled shall be covered into the United States Treasury and applied as provided by law for the disposal of the proceeds from the sale of public lands.

[SEC. 7. That a copy of all notices required by the drainage laws of the State of Arkansas to be given to the owners and occupants of lands held in private ownership shall, as soon as such notice is issued, be delivered to the register and receiver of the United States land office of the district in which the lands are situated where any of the lands subject to the operation of this Act are affected, and the United States and the entryman claiming under the public land laws of the United States shall be accorded the same rights to be heard by petition, answer, remonstrance, appeal, or otherwise, as are given to persons holding lands in private ownership, and all entrymen shall be given the same rights of redemption as are given to the owners of land held in private ownership.]

Act of May 1, 1958

[AN ACT

[To provide for the transfer of certain lands to the State of Minnesota.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That (a) the State of Minnesota may, within three years after the date of enactment of

this Act, file with the Secretary of the Interior (1) a schedule showing (A) each tract of public land which the State may have selected and which has not been reserved or withdrawn for some Federal use, and each tract of ceded or other Indian lands, which tracts are subject to liens under the Act entitled "An Act to authorize the drainage of certain lands in the State of Minnesota", approved May 20, 1908 (43 U.S.C. 1021–1027); (B) the amount of the lien under the Act of May 20, 1908, on each such tract of land, and the sum of the liens on all such tracts, which liens shall not include any interest charges which may have accrued after April 19, 1929, for land in the Red Lake Game Preserve and after April 25, 1931, for other lands; (C) the date when the lien on each such tract became effective; and (D) the authority under which the charges were assessed; and (2) an application to acquire the lands listed in such schedule in the manner provided in this Act.

[(b) The Secretary may, in his discretion, approve the listing of the lands in such schedule and accept the application for such lands. Upon such acceptance, the Secretary shall appraise the tracts listed in accordance with their fair market value. Such appraisal shall be conclusive for the purposes of this Act. The Secretary shall also determine the amount, if any, by which the total appraised value of the lands listed exceeds the total amount of the liens on such lands under the Act of May 20, 1908.

[SEC. 2. (a) Subject to the provisions of sections 3 and 5, the Secretary shall patent to the State the lands listed in any application accepted under the first section upon payment by the State to the United States of the excess of the total appraised value of the lands listed in such application over the total amount of the liens on such lands under the Act of May 20, 1908: *Provided*, That the payment for each tract of ceded or other Indian land shall be not less than $1.25 per acre for the use and benefit of the Indian tribe or individual owning the tract. The Secretary shall issue a patent to the State under the authority of this subsection only if the State makes payment of the amount of such excess within two years after the determination of such amount. The failure of the State to make payment within the time required by this subsection shall not operate as a bar to the filing of any subsequent schedule and application by the State in the manner, and within the time, prescribed by the first section.

[(b) Notwithstanding any other provisions of this Act, the Secretary may issue a patent to the State for the public lands subject to liens under the Act of May 20, 1908, not withdrawn or reserved for Indians or some Federal use, without payment, if he determines through appraisal or otherwise that the total amount of the liens on such lands under that Act is approximately equal to or exceeds the total value of the lands.

[(c) Any patent issued to the State under this Act shall contain the provisions and reservations which are inserted in patents for public lands entered under the homestead law.

[SEC. 3. Nothing in this Act shall be construed to prejudice any valid claims relating to the lands for which an application has been made and accepted under the first section of this Act. The Secretary shall notify all entrymen of the sum due the State for drainage charges under the Act of May 20, 1908, and shall give to the entrymen any extension of time which he determines is reasonable within which to

comply with the requirements of the law under which the entry was made, and to make the payments due the State. The Secretary shall not patent to the State any lands subject to such entries unless and until the entry involved is canceled in accordance with the law under which the entry was made.

[SEC. 4. After the date of enactment of this Act, no further liens or assessments shall be imposed on any Federal lands or any ceded or other Indian lands in the State of Minnesota under authority of the Act of May 20, 1908.

[SEC. 5. (a) With respect to ceded or other Indian lands, the Secretary may exercise the authority granted in the first section and section 2 of this Act only with the consent of the Indian owner or owners. The consent of the individuals owning two-thirds of the beneficial interest shall be sufficient in the case of undivided heirship lands. The consent of the Minnesota Chippewa Tribe and of the Red Lake Band of Chippewas, in the case of tribal lands, shall be evidenced by resolution of the recognized governing body of the tribe or band.

[(b) Nothing in this Act shall be construed to prejudice Indian title to any lands subject to lien, nor to preclude the right of the Indian owner, or owners, to clear title to their lands by payment of the lien claimed by the State.

[(c) Payments made by the State under this Act for the purchase of tribally owned Indian lands shall be deposited in the Treasury of the United States to the credit of the tribe owning such lands, and payments made for the purchase of individually owned Indian lands shall be deposited with the officer in charge of the Indian agency having jurisdiction over such lands to the credit of the Indian owners thereof.

[SEC. 6. The Secretary may prescribe rules and regulations which he determines will effectuate the purposes of this Act.]

5.—ABANDONED MILITARY RESERVATIONS

Section 5 of the Act of July 5, 1884

[SEC. 5. Whenever any lands containing valuable mineral deposits shall be vacated by the reduction or abandonment of any military reservation under the provisions of this act, the same shall be disposed of exclusively under the mineral land laws of the United States.]

Act of August 23, 1894

[AN ACT

[To provide for the opening of certain abandoned military reservations, and for other purposes.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That all lands not already disposed of included within the limits of any abandoned military reservation heretofore placed under the control of the Secretary of the Interior for disposition under the Act approved July fifth, eighteen hundred and eighty-four, the disposal of which has not been provided for by a

subsequent Act of Congress, where the area exceeds five thousand acres, except such legal subdivisions as have Government improvements thereon, and except also such other parts as are now or may be reserved for some public use, are hereby opened to settlement under the public-land laws of the United States, and a preference right of entry for a period of six months from the date of this Act shall be given all bona fide settlers who are qualified to enter under the homestead law and have made improvements and are now residing upon any agricultural lands in said reservations, and for a period of six months from the date of settlement when that shall occur after the date of this Act: *Provided,* That persons who enter under the homestead law shall pay for such lands not less than the value heretofore or hereafter determined by appraisement, nor less than the price of the land at the time of the entry, and such payment may, at the option of the purchaser, be made in five equal installments, at times and at rates of interest to be fixed by the Secretary of the Interior.

[SEC. 2. That nothing contained in this Act shall be construed to suspend or to interfere with the operation of the said Act approved July fifth, eighteen hundred and eighty-four, as to all lands included in abandoned military reservations hereafter placed under the control of the Secretary of the Interior for disposal, and all appraisements required by the first section of this Act shall be in accordance with the provisions of said Act of July fifth, eighteen hundred and eighty-four.

[SEC. 3. That all persons now having, or who may hereafter file, homestead applications upon any of the lands situate within the abandoned Fort Abraham Lincoln Military Reservation, in Morton County, State of North Dakota, shall be entitled to a patent to the land filed upon by such person upon compliance with the provisions of the homestead law of the United States and proper proof thereof, and shall not be required to pay the appraised values of such lands in addition to such compliance with the said homestead law.]

Act of February 15, 1895

[AN ACT

[To amend and extend the provisions of an Act entitled "An Act to provide for the opening of certain abandoned military reservations, and for other purposes," approved August twenty-third, eighteen hundred and ninety-four.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the provisions of the Act approved August twenty-third, eighteen hundred and ninety-four, entitled "An Act to provide for the opening of certain abandoned military reservations, and for other purposes," are hereby extended to all abandoned military reservations which were placed under the control of the Secretary of the Interior under any law in force prior to the Act of July fifth, eighteen hundred and eighty-four.]

Act of February 11, 1903

[AN ACT

[Adjusting certain conflicts respecting State school indemnity selections in lieu of school sections in abandoned military reservations.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That all State school indemnity selections in lieu of what are known as school sections in abandoned military reservations made pursuant to the decision of the Secretary of the Interior dated January twenty-eighth, eighteen hundred and ninety-eight, and before notice of the withdrawal of that decision was received at the local land office at which the selections were made, and which are otherwise regular and free from any prior lawful claim, shall be confirmed by the Secretary of the Interior; and the lands in such school sections in lieu of which such confirmed selections were made shall be disposed of under the laws applicable to other lands in such abandoned military reservations, a preference right being accorded to those who have made and maintained a bona fide settlement or entry pursuant to said decision of the Secretary of the Interior.]

6.—PUBLIC LANDS IN OKLAHOMA

Act of May 2, 1890

* * * * * * *

SEC. 18. That sections numbered sixteen and thirty-six in each township in said Territory shall be, and the same are hereby, reserved for the purpose of being applied to public schools in the State or States hereafter to be erected out of the same. In all cases where sections sixteen and thirty-six, or either of them, are occupied by actual settlers prior to survey thereof, the county commissioners of the counties in which such sections are so occupied are authorized to locate other lands, to an equal amount, in sections or fractional sections, as the case may be, within their respective counties, in lieu of the sections so occupied.

* * * * * * *

[Whenever any of the other lands within the Territory of Oklahoma, now occupied by any Indian tribe, shall by operation of law or proclamation of the President of the United States, be open to settlement, they shall be disposed of to actual settlers only, under the provisions of the homestead law, except section twenty-three hundred and one of the Revised Statutes of the United States, which shall not apply: *Provided, however,* That each settler, under and in accordance with the provisions of said homestead laws, shall before receiving a patent for his homestead pay to the United States for the land so taken by him, in addition to the fees provided by law, a sum per acre equal to the amount which has been or may be paid by the United States to obtain a relinquishment of the Indian title or interest therein, but in no case shall such payment be less than one dollar and twenty-five cents per acre. The rights of honorably discharged soldiers and sailors in the late civil war, as defined and

described in sections twenty-three hundred and four and twenty-three hundred and five of the Revised Statutes of the United States, shall not be abridged except as to such payment. All tracts of land in Oklahoma Territory which have been set apart for school purposes, to educational societies, or missionary boards at work among the Indians, shall not be open for settlement, but are hereby granted to the respective educational societies or missionary boards for whose use the same has been set apart. No part of the land embraced within the Territory hereby created shall inure to the use or benefit of any railroad corporation, except the rights of way and land for stations heretofore granted to certain railroad corporations. Nor shall any provision of this act or any act of any officer of the United States, done or performed under the provisions of this act or otherwise, invest any corporation owning or operating any railroad in the Indian Territory, or Territory created by this act, with any land or right to any land in either of said Territories, and this act shall not apply to or affect any land which, upon any condition on becoming a part of the public domain, would inure to the benefit of, or become the property of, any railroad corporation.]

* * * * * * *

[SEC. 20. That the procedure in applications, entries, contests, and adjudications in the Territory of Oklahoma shall be in form and manner prescribed under the homestead laws of the United States, and the general principles and provisions of the homestead laws, except as modified by the provisions of this act and the acts of Congress approved March first and second, eighteen hundred and eighty-nine, heretofore mentioned, shall be applicable to all entries made in said Territory, but no patent shall be issued to any person who is not a citizen of the United States at the time of making final proof.

[All persons who shall settle on land in said Territory, under the provisions of the homestead laws of the United States, and of this act, shall be required to select the same in square form as nearly as may be; and no person who shall at the time be seized in fee simple of a hundred and sixty acres of land in any State or Territory, shall hereafter be entitled to enter land in said Territory of Oklahoma. The provisions of sections twenty-three hundred and four and twenty-three hundred and five of the Revised Statutes of the United States shall, except so far as modified by this act, apply to all homestead settlements in said Territory.

[SEC. 21. That any person, entitled by law to take a homestead in said Territory of Oklahoma, who has already located and filed upon, or shall hereafter locate and file upon, a homestead within the limits described in the President's proclamation of April first, eighteen hundred and eighty-nine, and under and in pursuance of the laws applicable to the settlement of the lands opened for settlement by such proclamation, and who has complied with all the laws relating to such homestead settlement, may receive a patent therefor at the expiration of twelve months from date of locating upon said homestead upon payment to the United States of one dollar and twenty-five cents per acre for land embraced in such homestead.

[SEC. 22. That the provisions of title thirty-two, chapter eight of the Revised Statutes of the United States relating to "reservation and sale of town sites on the public lands" shall apply to the lands open, or to be opened to settlement in the Territory of Oklahoma,

except those opened to settlement by the proclamation of the President on the twenty-second day of April, eighteen hundred and eighty-nine: *Provided*, That hereafter all surveys for town sites in said Territory shall contain reservations for parks (of substantially equal area if more than one park) and for schools and other public purposes, embracing in the aggregate not less than ten nor more than twenty acres; and patents for such reservations, to be maintained for such purposes, shall be issued to the towns respectively when organized as municipalities: *Provided further*, That in case any lands in said Territory of Oklahoma, which may be occupied and filed upon as a homestead, under the provisions of law applicable to said Territory, by a person who is entitled to perfect his title thereto under such laws, are required for town site purposes, it shall be lawful for such person to apply to the Secretary of the Interior to purchase the lands embraced in said homestead or any part thereof for town-site purposes. He shall file with the application a plat of such proposed town-site, and if such plat shall be approved by the Secretary of the Interior, he shall issue a patent to such person for land embraced in said town site, upon the payment of the sum of ten dollars per acre for all the lands embraced in such town site, except the lands to be donated and maintained for public purposes as provided in this section. And the sums so received by the Secretary of the Interior shall be paid over to the proper authorities of the municipalities when organized, to be used by them for school purposes only.

[SEC. 23. That there shall be reserved public highways four rods wide between each section of land in said Territory, the section lines being the center of said highways; but no deduction shall be made, where cash payments are provided for, in the amount to be paid for each quarter section of land by reason of such reservation. But if the said highway shall be vacated by any competent authority, the title to the respective strips shall inure to the then owner of the tract of which it formed a part by the original survey.

[SEC. 24. That it shall be unlawful for any person, for himself or any company, association, or corporation, to directly or indirectly procure any person to settle upon any lands open to settlement in the Territory of Oklahoma, with intent thereafter of acquiring title thereto; and any title thus acquired shall be void; and the parties to such fraudulent settlement shall severally be guilty of a misdemeanor, and shall be punished upon indictment, by imprisonment not exceeding twelve months, or by a fine not exceeding one thousand dollars, or by both such fine and imprisonment, in the discretion of the court.]

* * * * * * *

[SEC. 27. That the provisions of this act shall not be so construed as to invalidate or impair any legal claims or rights of persons occupying any portion of said Territory, under the laws of the United States, but such claims shall be adjudicated by the Land Department, or the courts, in accordance with their respective jurisdictions.]

* * * * * * *

Act of May 14, 1890

* * * * * * *

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [That so much of the public lands situate in the Territory of Oklahoma, now open to settlement, as may be necessary to embrace all the legal subdivisions covered by actual occupancy for purposes of trade and business, not exceeding twelve hundred and eighty acres in each case, may be entered as town-sites, for the several use and benefit of the occupants thereof, by three trustees to be appointed by the Secretary of the Interior for that purpose, such entry to be made under the provisions of section twenty-three hundred and eighty-seven of the Revised Statutes as near as may be; and when such entry shall have been made, the Secretary of the Interior shall provide regulations for the proper execution of the trust, by such trustees including the survey of the land into streets, alleys, squares, blocks, and lots when necessary, or the approval of such survey as may already have been made by the inhabitants thereof, the assessment upon the lots of such sum as may be necessary to pay for the lands embraced in such town-site, costs of survey, conveyance of lots, and other necessary expenses, including compensation of trustees: *Provided,* That the Secretary of the Interior may when practicable cause more than one town site to be entered and the trust thereby created executed in the manner herein provided by a single board of trustees, but not more than seven boards of trustees in all shall be appointed for said Territory, and no more than two members of any of said boards shall be appointed from one political party.

[SEC. 2. That in the execution of such trust, and for the purpose of the conveyance of title by said trustees, any certificate or other paper evidence of claim duly issued by the authority recognized for such purpose by the people residing upon any town site the subject of entry hereunder, shall be, taken as evidence of the occupancy by the holder thereof of the lot or lots therein described, except that where there is an adverse claim to said property such certificate shall only be prima facie evidence of the claim of occupancy of the holder: *Provided,* That nothing in this act contained shall be so construed as to make valid any claim now invalid of those who entered upon and occupied said lands in violation of the laws of the United States or the proclamation of the President thereunder: *Provided further,* That the certificates hereinbefore mentioned shall not be taken as evidence in favor of any person claiming lots who entered upon said lots in violation of law or the proclamation of the President thereunder.

[SEC. 3. That lots of land occupied by any religious organization, incorporated or otherwise, conforming to the approved survey within the limits of such town-site, shall be conveyed to or in trust for the same.

[SEC. 4. That all lots not disposed of as hereinbefore provided for shall be sold under the direction of the Secretary of the Interior for the benefit of the municipal government of any such town, or the same or any part thereof may be reserved for public use as sites for public buildings, or for the purpose of parks, if in the judgment of the Secretary such reservation would be for the public interest, and

the Secretary shall execute proper conveyances to carry out the provisions of this section.

[SEC. 5. That the provisions of sections four, five, six and seven, of an act of the legislature of the State of Kansas, entitled "An act relating to town-sites," approved March second, eighteen hundred and sixty-eight, shall, so far as applicable, govern the trustees in the performance of their duties hereunder.

[SEC. 6. That all entries of town-sites now pending on application hereafter made under this act, shall have preference at the local land office of the ordinary business of the office and shall be determined as speedily as possible, and if an appeal shall be taken from the decision of the local office in any such case to the Commissioner of the General Land Office, the same shall be made special, and disposed of by him as expeditiously as the duties of his office will permit, and so if an appeal should be taken to the Secretary of the Interior. And all applications heretofore filed in the proper land office shall have the same force and effect as if made under the provisions of this act, and upon the application of the trustees herein provided for, such entries shall be prosecuted to final issue in the names of such trustees, without other formality and when final entry is made the title of the United States to the land covered by such entry shall be conveyed to said trustees for the uses and purposes herein provided.

[SEC. 7. That the trustees appointed under this act shall have the power to administer oaths, to hear and determine all controversies arising in the execution of this act shall keep a record of their proceedings, which shall, with all papers filed with them and all evidence of their official acts, except conveyances, be filed in the General Land Office and become part of the records of the same, and all conveyances executed by them shall be acknowledged before an officer duly authorized for that purpose. They shall be allowed such compensation as the Secretary of the Interior may prescribe, not exceeding ten dollars per day while actually employed; and such traveling and other necessary expenses as the Secretary may authorize and the Secretary of the Interior shall also provide them with necessary clerical force by detail or otherwise.]

* * * * * * *

Sections 16 and 37 of the Act of March 3, 1891

[SEC. 16. That whenever any of the lands acquired by either of the three foregoing agreements respecting lands in the Indian or Oklahoma Territory shall by operation of law or proclamation of the President of the United States be open to settlement they shall be disposed of to actual settlers only, under the provisions of the homestead and town site laws (except section twenty-three hundred and one of the Revised Statutes of the United States which shall not apply): *Provided, however,* That each settler, on said lands shall before making a final proof and receiving a certificate of entry, pay to the United States for the land so taken by him, in addition to the fees provided by law, and within five years from the date of the first original entry, the sum of one dollar and fifty cents per acre, one-

half of which shall be paid within two years; but the rights of honorably discharged Union soldiers and sailors as defined and described in sections twenty-three hundred and four and twenty-three hundred and five of the Revised Statutes of the United States shall not be abridged except as to the sum to be paid as aforesaid, and all the lands in Oklahoma are hereby declared to be agricultural lands, and proof of their non-mineral character shall not be required as a condition precedent to final entry.]

* * * * * * *

[SEC. 37. That before any lands in Oklahoma are open to settlement it shall be the duty of the Secretary of the Interior to divide the same into counties which shall contain as near as possible not less than seven hundred square miles in each county. In establishing said county line the Secretary is hereby authorized to extend the lines of the counties already located so as to make the area of said counties equal, as near as may be, to the area of the counties provided for in this act. At the first election for county officers the people of each county may vote for a name for each county, and the name which receives the greatest number of votes shall be the name of such county: *Provided further,* That as soon as the county lines are designated by the Secretary he shall reserve not to exceed one-half section of land in each county, to be located near the center of said county, for county seat purposes, to be entered under sections twenty-three hundred and eighty-seven and twenty-three hundred and eighty-eight of the Revised Statutes.]

Act of September 1, 1893

[JOINT RESOLUTION

[To make the provisions of the act of May Fourteenth, One Thousand Eight Hundred and Ninety, which provides for townsite entries of lands in a portion of what is known as Oklahoma applicable to the territory known as the "Cherokee Outlet", and to make the provisions of said act applicable to townsites in the "Cherokee Outlet".

[*Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled,* That all the provisions of an act of Congress, approved May Fourteenth, One Thousand Eight Hundred and Ninety, which provides for townsite entries of lands in a portion of what is known as "Oklahoma," be, and the same are hereby, made applicable to the territory known as the "Cherokee Outlet," and now a part of the Territory of Oklahoma; and that all acts or parts of acts inconsistent with this joint resolution be and the same are hereby repealed.]

Act of May 11, 1896

[AN ACT

[To provide for the disposal of public reservations in vacated town sites or additions to town sites in the Territory of Oklahoma.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That in all cases where a town

site, or an addition to a town site, entered under the provisions of section twenty-two of an Act entitled "An Act to provide a temporary government for the Territory of Oklahoma, to enlarge the jurisdiction of the United States court in the Indian Territory, and for other purposes," approved May second, eighteen hundred and ninety, shall be vacated in accordance with the laws of the Territory of Oklahoma, and patents for the public reservations in such vacated town site, or addition thereto, have not been issued, it shall be lawful for the Commissioner of the General Land Office, upon an official showing that such town site, or addition thereto, has been vacated, and upon payment of the homestead price for such reservations, to issue a patent for such reservations to the original entryman.

[If the original entryman shall fail or neglect to make application for the reservations within six months from the vacation of such town site, or from the passage of this Act, the reservations shall be subject to disposal under the provisions of section twenty-four hundred and fifty-five of the Revised Statutes of the United States, as amended by the Act approved February twenty-sixth, eighteen hundred and ninety-five.

[SEC. 2. That if a patent has already issued, or shall hereafter issue, for any such reservation, to any town or municipality, such town or municipality, upon the vacation of the town site or addition thereto, as aforesaid, may sell the same at public or private sale to the highest bidder after thirty days' public notice of such sale, and convey said lands to the purchaser by proper deed of conveyance, and cover the proceeds of such sale into the school fund of such town or municipality: *Provided*, That where, by reason of the vacation of an entire town site and all its additions, the municipal organization has ceased to exist, the reservations in such vacated town site which may have been patented to the town may be disposed of as isolated tracts under the provisions of section twenty-four hundred and fifty-five of the Revised Statutes of the United States, as amended by the Act approved February twenty-sixth, eighteen hundred and ninety-five.]

Act of January 18, 1897

* * * * * * *

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [That every person qualified under the homestead laws of the United States, who, on March sixteenth, eighteen hundred and ninety-six, was a bona fide occupant of land within the territory established as Greer County, Oklahoma, shall be entitled to continue his occupation of such land with improvements thereon, not exceeding one hundred and sixty acres, and shall be allowed six months preference right from the passage of this Act within which to initiate his claim thereto, and shall be entitled to perfect title thereto under the provisions of the homestead law, upon payment of land office fees only, at the expiration of five years from the date of entry, except that such person shall receive credit for all time during which he or those under whom he claims shall have continuously occupied the same prior to March sixteenth, eighteen hundred and ninety-six. Every such person shall also have the right, for six months

prior to all other persons, to purchase at one dollar an acre, in five equal annual payments, any additional land of which he was in actual possession on March sixteenth, eighteen hundred and ninety-six, not exceeding one hundred and sixty acres, which, prior to said date, shall have been cultivated, purchased, or improved by him. When any person entitled to a homestead or additional land, as above provided, is the head of a family, and though still living, shall not take such homestead or additional land, within six months from the passage of this Act, any member of such family over the age of twenty-one years, other than husband or wife, shall succeed to the right to take such homestead or additional land for three months longer, and any such member of the family shall also have the right to take, as before provided, any excess of additional land actually cultivated or improved prior to March sixteenth, eighteen hundred and ninety-six above the amount to which such head of the family is entitled, not to exceed one hundred and sixty acres to any one person thus taking as a member of such family.

[In case of the death of any settler who actually established residence and made improvement on land in said Greer County prior to March sixteenth, eighteen hundred and ninety-six, the entry shall be treated as having accrued at the time the residence was established, and sections twenty-two hundred and ninety-one and twenty-two hundred and ninety-two of the Revised Statutes shall be applicable thereto.

[Any person entitled to such homestead or additional land shall have the right prior to January first, eighteen hundred and ninety-seven, from the passage of this Act to remove all crops and improvements he may have on land not taken by him.

[SEC. 2. That all land in said county not occupied, cultivated, or improved, as provided in the first section hereof, or not included within the limits of any town site or reserve, shall be subject to entry to actual settlers only, under the provisions of the homestead law.

[SEC. 3. That the inhabitants of any town located in said county shall be entitled to enter the same as a town site under the provisions of sections twenty-three hundred and eighty-seven, twenty-three hundred and eighty-eight, and twenty-three hundred and eighty-nine of the Revised Statutes of the United States: *Provided*, That all persons who have made or own improvements on any town lots in said county made prior to March sixteenth, eighteen hundred and ninety-six, shall have the preference right to enter said lots under the provisions of this Act and of the general town-site laws.]

* * * * * * *

[SEC. 7. That the provisions of this Act shall apply only to Greer County, Oklahoma, and that all laws inconsistent with the provisions of this Act, applying to said territory in said county, are hereby repealed; and all laws authorizing commutations of homesteads in Oklahoma shall apply to Greer County.]

* * * * * * *

Act of August 7, 1946

[AN ACT

[Relating to the disposition of public lands of the United States situated in the State of Oklahoma between the Cimarron base line and the north boundary of the State of Texas.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That whenever it shall be shown, under such regulations as the Secretary of the Interior may prescribe, that public land situated south of the Cimarron base line in Oklahoma and north of the north line of Texas has been used, improved, or cultivated in connection with abutting land, and has been held in good faith, in peaceful, open, adverse possession by a citizen or citizens of the United States, his or their ancestors, or grantors, for a period not less than twenty years prior to the passage of this Act, such citizen or citizens shall be entitled to receive a patent therefor upon payment of $1.25 per acre: *Provided,* That oil, gas, or other mineral deposits contained therein are hereby reserved to the United States; that said minerals shall be and remain subject to sale or disposal by the United States under applicable laws; and that permittees, lessees, grantees, or agents of the United States shall have a right to enter upon said lands for the purpose of prospecting for and mining said minerals: *And provided further,* That any person entitled to patent under this Act shall present his application within one year from the official filing of the township plat.

[SEC. 2. That where any land included within said area has been included in townsite plats recorded on the county records in Texas or Oklahoma, and the lots, blocks, streets, alleys, and highways, have been shown on the official United States township plats, according to such townsite plats, the title of the United States to town lots shown on such plats is hereby relinquished to and confirmed in those persons, their heirs, assigns, or successors, who would be the true and lawful owners if the lands had been owned in fee simple at the time of the recordation of such townsite plats. The township plats representing streets and alleys of any townsite shall be considered as executed under the townsite laws, and shall constitute a dedication of the streets, alleys, and public highways shown thereon: *Provided,* That the oil, gas, or other mineral deposits in the land relinquished, confirmed, or dedicated by this section, are hereby reserved to the United States for disposal as provided in section 1 hereof.]

Act of August 3, 1955

[AN ACT

[To provide for the management and disposition of certain public domain lands in the State of Oklahoma.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior is authorized to provide, in accordance with the terms of this Act, for the management and disposition of any interest of the United States in those lands which were reconveyed to the United States by deeds of conveyance executed on November 29, 1950, by

the principal chief of the Choctaw Nation and the governor of the Chickasaw Nation, or which have been, or may be, reconveyed to the United States by any further and supplemental conveyances made under the authority of the Interior Department Appropriation Act of June 28, 1944 (58 Stat. 463, 483), the joint resolution of June 24, 1948 (62 Stat. 596), and the First Deficiency Appropriation Act of May 24, 1949 (63 Stat. 76, 84).

[SEC. 2. (a) The Secretary of the Interior, in order to facilitate the administration and management of the lands, to remove any clouds on the titles of any persons to interests in such lands, or to establish definite boundaries for such lands, may (1) sell any tract of the lands at public sale to the highest responsible bidder, or at private sale; or (2) relinquish any tract of such lands, with or without compensation, to any person having a legal or equitable interest therein. In passing upon a proposed disposition of any tract of land under this subsection, the Secretary shall take into account the uses to which the tract involved is most suited and whether it may be better utilized in private ownership.

[(b) In selling any tract under subsection (a) of this section, the Secretary shall make such provision as he may deem appropriate to give a preference right to any occupant of the tract who has, or whose predecessors in interest have, lawfully and continuously occupied the tract for home, business, or school purposes since April 30, 1949, or earlier. The Secretary shall give any occupant who is lawfully in possession of a tract at the time of its offer for sale, an appropriate period within which such occupant may remove improvements constructed by him or by his predecessors in interest, or may elect to receive compensation for such improvements from the successful purchaser of the tract in an amount equal to the appraised value of the improvements as determined by the Secretary.

[(c) In disposing of an interest in any tract under this Act, the Secretary may also give a preference right, when he deems it appropriate, to any owner of an interest in any land adjoining the tract to be disposed.

[SEC. 3. (a) The Secretary may sell or lease any tract under the provisions of the Act of June 4, 1954 (68 Stat. 173; 43 U.S.C., sec. 869, and the following), to the State of Oklahoma or any other agency or organization qualified under that Act.

[(b) Upon the filing of an application by an appropriate local governing body within two years after the first issuance of regulations under this Act, the Secretary of the Interior may relinquish or convey to such body, without compensation, the surface rights to any tract of the lands which, prior to the transfer of title to the United States, was set apart for streets, alleys, or other public purposes, even though not legally dedicated to such purposes.

[SEC. 4. (a) The Secretary of the Interior shall issue quitclaim deeds for any lands disposed of under section 2 or section 3(b) of this Act. The Secretary shall fix through appraisal the minimum price to be paid for lands that are offered for sale under subsection (a)(1) of section 2. If any lands are relinquished under subsection (a)(2) of section 2, without compensation, the Secretary shall require the grantee to pay a service charge of not less than $10.

[(b) Any deed for lands disposed of under section 2 of this Act shall contain a reservation to the United States of all mineral deposits,

together with the right to prospect for, mine, and remove the same under applicable provisions of law. Any deed for lands disposed of under this Act shall contain any provision which the Secretary determines is necessary in order to protect the rights of the holders of existing interests in the lands, or to permit access to any of the lands in which the Federal Government retains an interest.

[(c) If a survey is necessary to describe properly any lands that are to be disposed of under this Act, the Secretary shall require the proposed grantee to pay the proportionate cost of such survey.

[SEC. 5. The Secretary of the Interior may issue easements, leases, or permits for the development and use of nonmineral resources of the lands or may sell such resources.

[SEC. 6. The Secretary of the Interior may accept contributions or donations of money, services, and property to further the provisions of this Act. Moneys received under this section shall be covered into the Treasury and are hereby appropriated and made available until expended, as the Secretary may direct, for payment of expenses incident to the function toward the administration of which the contributions were made and for refunds to contributors of amounts contributed by them in excess of their appropriate share of such expenses, as determined by the Secretary.

[SEC. 7. The Secretary of the Interior may issue such regulations as may be necessary or appropriate to carry out the provisions of this Act, including regulations providing for the protection of the surface and other nonmineral values of lands disposed of under this Act whenever any mineral rights reserved to the United States are exercised by it or under its authority.

[SEC. 8. All moneys realized under the provisions of this Act, except moneys received under the provisions of section 6, shall be deposited in the Treasury as miscellaneous receipts.]

7.—PATENTS FOR PRIVATE CLAIMS

Sections 2447 and 2448 of the Revised Statutes of the United States

[SEC. 2447. In case of any claim to land in any State or Territory which has heretofore been confirmed by law, and in which no provision is made by the confirmatory statute for the issue of a patent, it may be lawful, where surveys for the land have been or may hereafter be made, to issue patents for the claims so confirmed, upon the presentation to the Commissioner of the General Land-Office of plats of survey thereof, duly approved by the surveyor-general of any State or Territory, if the same be found correct by the Commissioner. But such patents shall only operate as a relinquishment of title on the part of the United States, and shall in no manner interfere with any valid adverse right to the same land, nor be construed to preclude a legal investigation and decision by the proper judicial tribunal between adverse claimants to the same land.

[SEC. 2448. Where patents for public lands have been or may be issued, in pursuance of any law of the United States, to a person who had died, or who hereafter dies, before the date of such patent, the title

to the land designated therein shall inure to and become vested in the heirs, devisees, or assignees of such deceased patentee as if the patent had issued to the deceased person during life.]

Sections 1 and 2 of the Act of June 6, 1874

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [That all of the right, title, and interest of the United States in and to all of the lands in the State of Missouri which have at any time heretofore been confirmed to any person or persons by any act of Congress, or by any officer or officers, or board or boards of commissioners, acting under and by authority of any act of Congress, shall be, and the same are hereby, granted, released, and relinquished by the United States, in fee-simple, to the respective owners of the equitable titles thereto, and to their respective heirs and assigns forever, as fully and as completely, in every respect whatever, as could be done by patents issued therefor according to law.

[SEC. 2. That nothing contained in the first section of this act shall, in any manner, abridge, divest, impair, injure or prejudice any valid right, title or interest of any person or persons in or to any portion or part of the lands mentioned in said first section; and this act shall in no wise affect any lands or lots heretofore relinquished to the United States.]

Act of January 28, 1879

[AN ACT

[Defining the manner in which certain land-scrip may be assigned and located, or applied by actual settlers, and providing for the issue of patents in the name of the locator or his legal representatives.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That whenever, in cases prosecuted under the acts of Congress of June twenty-second, eighteen hundred and sixty, March second, eighteen hundred and sixty-seven, and the first section of the act of June tenth, eighteen hundred and seventy-two, providing for the adjustment of private land-claims in the States of Florida, Louisiana and Missouri, the validity of the claim has been, or shall be hereafter, recognized by the Supreme Court of the United States, and the court has decreed that the plaintiff or plaintiffs is or are entitled to enter a certain number of acres upon the public lands of the United States, subject to private entry at one dollar and twenty-five cents per acre, or to receive certificate of location for as much of the land the title to which has been established as has been disposed of by the United States, certificate of location shall be issued by the Commissioner of the General Land Office, attested by the seal of said office, to be located as provided for in the sixth section of the aforesaid act of Congress of June twenty-second, eighteen hundred and sixty, or applied according to the provisions of the second section of this act; and said certificate of location or scrip shall be subdivided according to the request of the confirmee or confirmees, and, as nearly as practicable, in conformity with the legal divisions and subdivisions of the public lands of the United States, and shall be, and are hereby

declared to be, assignable by deed or instrument of writing, according to the form and pursuant to regulations prescribed by the Commissioner of the General Land Office, so as to vest the assignee with all the rights of the original owners of the scrip, including the right to locate the scrip in his own name.

[SEC. 2. That such scrip shall be received from actual settlers only in payment of pre-emption claims or in commutation of homestead claims, in the same manner and to the same extent as is now authorized by law in the case of military bounty-land warrants.

[SEC. 3. That the register of the proper land-office, upon any such certificate being located, shall issue, in the name of the party making the location, a certificate of entry, upon which, if it shall appear to the satisfaction of the Commissioner of the General Land Office that such certificate has been fairly obtained, according to the true intent and meaning of this act, a patent shall issue, as in other cases, in the name of the locator or his legal representative.

[SEC. 4. That the provisions of this act respecting the assignment and patenting of scrip and its application to pre-emption and homestead claims shall apply to the indemnity-certificates of location provided for by the act of the second of June, eighteen hundred and fifty-eight, entitled "An act to provide for the location of certain confirmed private land-claims in the State of Missouri, and for other purposes.]

Act of May 30, 1894

[AN ACT

[Supplementary to the Act of Congress approved January twenty-eighth, eighteen hundred and seventy-nine, entitled "An Act defining the manner in which certain land scrip may be assigned and located or applied by actual settlers, and providing for the issue of patents in the name of the locator or his legal representatives".

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That it shall be lawful for the Commissioner of the General Land Office to cause patents to be issued, as evidence of title, for all valid locations made with land scrip issued pursuant to decrees of the Supreme Court of the United States, which valid locations were made prior to the approval of the aforesaid Act in the same manner that patents are now issued under the provisions of section three of said Act of January twenty-eighth, eighteen hundred and seventy-nine.]

8.—SALES OF ISOLATED TRACTS

Act of February 4, 1919

[AN ACT

[For the sale of isolated tracts of the public domain in Minnesota.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the provisions

of section twenty-four hundred and fifty-five of the Revised Statutes of the United States as amended by the Act of March twenty-eighth, nineteen hundred and twelve (Thirty-seventh Statutes at Large, page seventy-seven), relating to the sale of isolated tracts of the public domain, be, and the same are hereby, extended and made applicable to ceded Chippewa Indian lands in the State of Minnesota: *Provided*, That the provisions of this Act shall not apply to lands which are not subject to homestead entry: *Provided further*, That purchasers of land under this Act must pay for the lands not less than the price fixed in the law opening the lands to homestead entry.]

Act of May 10, 1920

[AN ACT

[For the sale of isolated tracts in the former Fort Berthold Indian Reservation, North Dakota.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the provisions of section 2455 of the Revised Statutes of the United States as amended by the Act of March 28, 1912 (Thirty-seventh Statutes at Large, page 77), relating to the sale at public auction of isolated tracts of the public domain, be, and the same are hereby, extended and made applicable to lands within the portion of the Fort Berthold Indian Reservation, North Dakota, opened under the Act of June 1, 1910 (Thirty-sixth Statutes at Large, page 455): *Provided*, That the provisions of this Act shall not apply to lands which are not subject to homestead entry: *Provided further*, That purchasers of land under this Act shall pay for the lands not less than the price fixed in the law opening such lands to homestead entry.]

Act of August 11, 1921

[AN ACT

[To extend the provisions of section 2455, Revised Statutes, to the lands within the abandoned Fort Buford Military Reservation in the States of North Dakota and Montana.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the provisions of section 2455, Revised Statutes of the United States, be, and the same are hereby, extended to all nonmineral lands within the abandoned Fort Buford Military Reservation in the States of North Dakota and Montana, which were restored to disposal under the homestead, town site, and desert land laws under the provisions of the Act of May 19, 1900 (Thirty-first Statutes at Large, page 180).]

Act of May 19, 1926

[AN ACT

[Extending the provisions of section 2455 of the United States Revised Statutes to ceded lands of the Fort Hall Indian Reservation.

[*Be it enacted by the Senate and House of Representatives of the the United States of America in Congress assembled,* That the provisions of section 2455, United States Revised Statutes, as amended by the Act of June 27, 1906 (Thirty-fourth Statutes at Large, page 517), and by the Act of March 28, 1912 (Thirty-seventh Statutes at Large, page 77), are made applicable to the ceded lands on the former Fort Hall Indian Reservation: *Provided,* That no land shall be sold at less than the price fixed by the law opening the lands to homestead entry.]

Act of April 24, 1928

[AN ACT

[To extend the provisions of section 2455, United States Revised Statutes, to certain public lands in the State of Oklahoma.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That all the provisions of section 2455, United States Revised Statutes (Section 1171, Title 43, United States Code), as amended, be, and they are hereby, extended to surveyed, unreserved, unappropriated nonmineral public lands in that part of the State of Oklahoma formerly comprised in Oklahoma Territory: *Provided,* That this Act shall not apply to any such area where under existing law such lands are now subject to public or private sale: *Provided further,* That the proceeds of all sales hereunder shall be deposited in the Treasury of the United States to the credit of such fund or funds as may be provided by existing law for the disposition of such lands.]

Act of May 23, 1930

[AN ACT

[To extend the provisions of section 2455 of the Revised Statutes of the United States (U.S.C., title 43, sec. 1171), as amended, to coal lands in Alabama.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the provisions of section 2455 of the Revised Statutes of the United States (U.S.C., title 43, sec. 1171), as amended, be, and the same are hereby, extended to the surveyed unreserved, unappropriated public lands in the State of Alabama which have been reported as containing coal deposits and which were withheld from homestead entry under the provisions of the Act of Congress entitled "An Act to exclude the public lands in Alabama from the operation of the laws relating to mineral lands," approved March 3, 1883, but there shall be a reservation to the United States of the coal in all such lands so sold and

of the right to prospect for, mine, and remove the same in accordance with the provisions of the Act of Congress approved June 22, 1910, entitled "An Act to provide for agricultural entries on coal lands," and such lands shall be subject to all the conditions and limitation of said Act.]

Act of February 14, 1931

[AN ACT

[Providing for the sale of isolated tracts in the former Crow Indian Reservation, Montana.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the provisions of section 2455 of the Revised Statutes of the United States, as amended by the Act of March 9, 1928 (45 Stat. L. 253; U.S.C., 2d supp., title 43, ch. 28, sec. 1171), be, and the same are hereby, extended and made applicable to lands within the portion of the Crow Indian Reservation, Montana, ceded by the Act of March 3, 1891 (26 Stat. L. 1040).]

9.—EVIDENCE OF TITLE

Sections 2471, 2472, and 2473 of the Revised Statutes of the United States

[SEC. 2471. Every person who falsely makes, alters, forges, or counterfeits, or causes or procures to be falsely made, altered, forged, or counterfeited; or willingly aids and assists in the false making, altering, forging, or counterfeiting any petition, certificate, order, report, decree, concession, denouncement, deed, patent, confirmation, diseño, map, expediente or part of an expediente, or any title-paper, or evidence of right, title, or claim to lands, mines, or minerals in California, or any instrument of writing whatever in relation to lands or mines or minerals in the State of California, for the purpose of setting up or establishing against the United States any claim, right, or title to lands, mines, or minerals within the State of California, or for the purpose of enabling any person to set up or establish any such claim; and every person, who, for such purpose, utters or publishes as true and genuine any such false, forged, altered, or counterfeited petition, certificate, order, report, decree, concession, denouncement, deed, patent, confirmation, diseño, map, expediente or part of an expediente, title-paper, evidence of right, title, or claim to lands or mines or minerals in the State of California, or any instrument of writing whatever in relation to lands or mines or minerals in the State of California, shall be punishable by imprisonment at hard labor not less than three years and not more than ten years, and by a fine of not more than ten thousand dollars. [See §§ 5411, 5412.]

[SEC. 2472. Every person who makes, or causes or procures to be made, or willingly aids and assists in making any falsely dated petition, certificate, order, report, decree, concession, denouncement, deed, patent, confirmation, diseño, map, expediente or part of an expediente, or any title-paper, or written evidence of right, title, or

claim, under Mexican authority, to any lands, mines, or minerals in the State of California, or any instrument of writing in relation to lands or mines or minerals in the State of California, having a false date, or falsely purporting to be made by any Mexican officer or authority prior to the seventh day of July, eighteen hundred and forty-six, for the purpose of setting up or establishing any claim against the United States to lands or mines or minerals within the State of California, or of enabling any person to set up or establish any such claim; and every person who signs his name as governor, secretary, or other public officer acting under Mexican authority, to any instrument of writing falsely purporting to be a grant, concession, or denouncement under Mexican authority, and during its existence in California, of lands, mines, or minerals, or falsely purporting to be an informe, report, record, confirmation, or other proceeding on an application for a grant, concession, or denouncement under Mexican authority, during its existence in California, of lands, mines, or minerals, shall be punishable as prescribed in the preceding section. [See §§ 5411, 5412.]

[SEC. 2473. Every person who, for the purpose of setting up or establishing any claim against the United States to lands, mines, or minerals within the State of California, presents, or causes or procures to be presented, before any court, judge, commission, or commissioner, or other officer of the United States, any false, forged, altered, or counterfeited petition, certificate, order, report, decree, concession, denouncement, deed, patent, diseño, map, expediente or part of an expediente, title-paper, or written evidence of right, title, or claim to lands, minerals, or mines in the State of California, knowing the same to be false, forged, altered, or counterfeited, or any falsely dated petition, certificate, order, report, decree, concession, denouncement, deed, patent, confirmation, diseño, map, expediente or part of an expediente, title-paper, or written evidence of right, title, or claim to lands, mines, or minerals in California, knowing the same to be falsely dated; and every person who prosecutes in any court of the United States, by appeal or otherwise, any claim against the United States for lands, mines, or minerals in California, which claim is founded upon, or evidenced by, any petition, certificate, order, report, decree, concession, denouncement, deed, patent, confirmation, diseño, map, expediente or part of an expediente, title-paper, or written evidence of right, title, or claim, which has been forged, altered, counterfeited, or falsely dated, knowing the same to be forged, altered, counterfeited, or falsely dated, shall be punishable as prescribed in section twenty-four hundred and seventy-one.]

10.—LANDS IN ALASKA

Sections 11 and 13 of the Act of March 3, 1891

[SEC. 11. That until otherwise ordered by Congress lands in Alaska may be entered for town-site purposes, for the several use and benefit of the occupants of such town sites, by such trustee or trustees as may be named by the Secretary of the Interior for that purpose, such entries to be made under the provisions of section twenty-three

hundred and eighty-seven of the Revised Statutes as near as may be; and when such entries shall have been made the Secretary of the Interior shall provide by regulation for the proper execution of the trust in favor of the inhabitants of the town site, including the survey of the land into lots, according to the spirit and intent of said section twenty-three hundred and eighty-seven of the Revised Statutes, whereby the same results would be reached as though the entry had been made by a county judge and the disposal of the lots in such town site and the proceeds of the sale thereof had been prescribed by the legislative authority of a State or Territory: *Provided*, That no more than six hundred and forty acres shall be embraced in one townsite entry.]

* * * * * * *

[SEC. 13. That it shall be the duty of any person, association, or corporation entitled to purchase land under this act to make an application to the United States marshal, ex officio surveyor-general of Alaska, for an estimate of the cost of making a survey of the lands occupied by such person, association, or corporation, and the cost of the clerical work necessary to be done in the office of the said United States marshal, ex officio surveyor-general; and on the receipt of such estimate from the United States marshal, ex officio surveyor general, the the said person, association, or coproration shall deposit the amount in a United States depository, as is required by section numbered twenty-four hundred and one, Revised Statutes, relating to deposits for surveys.

[That on the receipt by the United States marshal, ex-officio surveyor-general, of the said certificates of deposit, he shall employ a competent person to make such survey, under such rules and regulations as may be adopted by the Secretary of the Interior, who shall make his return of his field notes and maps to the office of the said United States marshal, ex-officio surveyor-general; and the said United States marshal, ex officio surveyor-general, shall cause the said field notes and plats of such survey to be examined, and, if correct, approve the same, and shall transmit certified copies of such maps and plats to the office of the Commissioner of the General Land Office.

[That when the said field notes and plats of said survey shall have been approved by the said Commissioner of the General Land Office, he shall notify such person, association, or corporation, who shall then, within six months after such notice, pay to the said United States marshal, ex officio surveyor-general, for such land, and patent shall issue for the same.]

* * * * * * *

Act of May 14, 1898

[AN ACT extending the homestead laws and providing for right of way for railroads in the District of Alaska, and for other purposes

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,[1] That all the provisions of the

[1] The Act of March 3, 1903, although not a direct amendment, has been treated by the codifiers as a direct amendment to this section and therefore, it is shown as amended.

homestead laws of the United States not in conflict with the provisions of this Act, and all rights incident thereto, are hereby extended to the district of Alaska, subject to such regulations as may be made by the Secretary of the Interior; and no indemnity, deficiency, or lieu land selections pertaining to any land grant outside of the district of Alaska shall be made, and no land scrip or land warrant of any kind whatsoever shall be located within or exercised upon any lands in said district except as now provided by law; and provided further that no more than one hundred and sixty acres shall be entered in any single body by such scrip, lieu selection, or soldier's additional homestead right; and along such shore a space of at least eighty rods shall be reserved from entry between all such claims; and provided further that no commutation privileges shall be allowed in excess of one hundred and sixty acres included in any homestead entry under the provisions hereof: *Provided*, That no entry shall be allowed extending more than one hundred and sixty rods along the shore of any navigable water, and along such shore a space of at least eighty rods shall be reserved from entry between all such claims; and that nothing herein contained shall be so construed as to authorize entries to be made or title to be acquired to the shore of any navigable waters within said district; and no patent shall issue hereunder until all the requirements of sections twenty-two hundred and ninety-one, twenty-two hundred and ninety-two, and twenty-three hundred and five of the Revised Statutes of the United States have been fully complied with as to residence, improvements, cultivation, and proof except as to commuted lands as herein provided: *And it is further provided*, That every person who is qualified under existing laws to make homestead entry of the public lands of the United States who has settled upon or who shall hereafter settle upon any of the public lands of the United States situated in the district of Alaska, whether surveyed or unsurveyed, with the intention of claiming the same under the homestead laws, shall, subject to the provisions and limitations hereof, be entitled to enter three hundred and twenty acres or a less quantity of unappropriated public land in said district of Alaska. If any of the land so settled upon, or to be settled upon, is unsurveyed, then the land settled upon, or to be settled upon, must be located in a rectangular form, not more than one mile in length, and located by north and south lines run according to the true meridian; that the location so made shall be marked upon the ground by permanent monuments at each of the four corners of the said location, so that the boundaries of the same may be readily and easily traced; that within ninety days from the date of settlement on surveyed or unsurveyed lands a notice shall be filed by or on behalf of the settler for record in the United States land office for the district in which the land is situated. Said notice shall contain the name of the settler and the date of the settlement, and such a description of the land settled upon, if surveyed, by legal subdivisions, section, township, and range, or, if unsurveyed, by reference to some natural object or permanent monument and by a statement if desired, of the approximate latitude and longitude determined from a map of Alaska, as will identify the land; and, if after the expiration of the period of three years, or at such date as the settler may desire to commute, the public surveys of the United States have not been extended over the land located, a patent shall nevertheless issue for the land included

within the boundaries of said location as thus recorded, upon proof to be submitted to the manager of the proper land office that the settler is a citizen of the United States, and upon the further proof required by section twenty-two hundred and ninety-one of the Revised Statutes of the United States as heretofore and herein amended, and under the procedure in the obtaining of patents to the unsurveyed lands of the United States, as provided for by section ten of the Act hereby amended, and under such rules and regulations as shall be prescribed by the Secretary of the Interior as hereinbefore provided without the payment of any purchase price or other charges, except the ordinary office fees and commissions, and except one dollar and twenty-five cents per acre on the land commuted: *And provided always*, That no title shall be obtained hereunder to any of the mineral or coal lands except as provided under the Act of March 8, 1922 (42 Stat. 415; 48 U.S.C. 376) of the district of Alaska: *And it is further provided*, That the right of any homestead settler to transfer any portion of the land so settled upon, as provided by section twenty-two hundred and eighty-eight of the Revised Statutes of the United States, shall be restricted and limited within the district of Alaska as follows: For church, cemetery, or school purposes to five acres, and for the right of railroads across such homestead to one hundred feet in width on either side of the center line of said railroad; and all contracts by the settler made before his receipt of patent from the Government, for the conveyance of the land homesteaded by him or her, except as herein provided, shall be held null and void.]

* * * * * * *

[SEC. 10. That any citizen of the United States twenty-one years of age, or any association of such citizens, or any corporation incorporated under the laws of the United States or of any State or Territory now authorized by law to hold lands in the Territories, hereafter in the possession of and occupying public lands in the District of Alaska in good faith for the purposes of trade, manufacture, or other productive industry, may each purchase one claim only not exceeding eighty acres of such land for any one person, association, or corporation, at two dollars and fifty cents per acre, upon submission of proof that said area embraces improvements of the claimant and is needed in the prosecution of such trade, manufacture, or other productive industry, such tract of land not to include mineral or coal lands under the Act of March 8, 1922 (42 Stat. 415; 48 U.S.C. 376), except as provided and ingress and egress shall be reserved to the public on the waters of all streams, whether navigable or otherwise: *Provided*, That any citizen of the United States twenty-one years of age employed by citizens of the United States, associations of such citizens, or by corporations organized under the laws of the United States, or of any State or Territory, whose employer is engaged in trade, manufacture, or other productive industry, and any citizen of the United States twenty-one years of age who is himself engaged in trade, manufacture, or other productive industry may purchase one claim, not exceeding five acres, of unreserved public lands, such tract of land not to include mineral, coal, oil or gas lands under the Act of March 8, 1922 (42 Stat. 415; 48 U.S.C. 376), except as provided in Alaska as a homestead or headquarters, under rules and regulations to be prescribed by the Secretary of the Interior, upon payment of $2.50 per acre: *Provided further*,

That any citizen of the United States, after occupying land of the character described as a homestead or headquarters, in a habitable house, not less than five months each year for three years, may purchase such tract, not exceeding five acres, in a reasonable compact form, without any showing as to his employment or business, upon payment of $2.50 per acre, under rules and regulations to be prescribed by the Secretary of the Interior, and in such cases surveys may be made without expense to the applicants in like manner as the survey of settlement claims under the Act of June 28, 1918 (40 Stat. 62), as amended by section 1 of the Act of April 13, 1926 (44 Stat. 243): *And provided further,* That the minimum payment for any such tract shall be $10, and no person shall be permitted to purchase more than one tract except upon a showing of good faith and necessity satisfactory to the Secretary of the Interior. *Provided,* That no entry shall be allowed under this Act on lands abutting on navigable water of more than eighty rods: *Provided further,* That there shall be reserved by the United States a space of eighty rods in width between tracts sold or entered under the provisions of this Act on lands abutting on any navigable stream, inlet, gulf, bay, or seashore, and that the Secretary of the Interior may grant the use of such reserved lands abutting on the water front to any citizen or association of citizens, or to any corporation incorporated under the laws of the United States or under the laws of any State or Territory, for landings, and wharves, with the provision that the public shall have access to and proper use of such wharves, and landings, at reasonable rates of toll to be prescribed by said Secretary, and a roadway sixty feet in width, parallel to the shore line as near as may be practicable, shall be reserved for the use of the public as a highway: *Provided further,* That in case more than one person, association, or corporation shall claim the same tract of land, the person, association, or corporation having the prior claim, by reason of actual possession and continued occupation in good faith, shall be entitled to purchase the same, but where several persons are or may be so possessed of parts of the tract applied for the same shall be awarded to them according to their respective interests; *Provided further,* That all claims substantially square in form and lawfully initiated, prior to January twenty-first eighteen hundred and ninety-eight, by survey or otherwise, under sections twelve and thirteen of the Act approved March third, eighteen hundred and ninety-one (Twenty-sixth Statutes at Large, Chapter five hundred and sixty-one) may be perfected and patented upon compliance with the provisions of said Act, but subject to the requirements and provisions of this Act, except as to area, but in no case shall such entry extend along the water front for more than one hundred and sixty rods: *And provided further,* That the Secretary of the Interior shall reserve for the use of the natives of Alaska suitable tracts of land along the water front of any stream, inlet, bay, or sea shore for landing places for canoes and other craft used by such natives: *Provided,* That the Annette, Pribilof Islands, and the islands leased or occupied for the propagation of foxes be excepted from the operation of this Act.

[That all affidavits, testimony, proofs, and other papers provided for by this Act and by said Act of March third, eighteen hundred and ninety-one, or by any departmental or Executive regulation thereunder, by depositions or otherwise, under commission from the

register and receiver of the land office, which may have been or may hereafter be taken and sworn to anywhere in the United States, before any court, judge, or other officer authorized by law to administer an oath, shall be admitted in evidence as if taken before the register and receiver of the proper local land office. And thereafter such proof, together with a certified copy of the field notes and plat of the survey of the claim, shall be filed in the office of the surveyor-general of the District of Alaska, and if such survey and plat shall be approved by him, certified copies thereof, together with the claimant's application to purchase, shall be filed in the United States land office in the land district in which the claim is situated, whereupon, at the expense of the claimant, the register of such land office shall cause notice of such application to be published for at least sixty days in a newspaper of general circulation published nearest the claim within the District of Alaska, and the applicant shall at the time of filing such field notes, plat, and application to purchase in the land office, as aforesaid, cause a copy of such plat, together with the application to purchase, to be posted upon the claim, and such plat and application shall be kept posted in a conspicuous place on such claim continuously for at least sixty days, and during such period of posting and publication or within thirty days thereafter any person, corporation, or association, having or asserting any adverse interest in, or claim to, the tract of land or any part thereof sought to be purchased, may file in the land office where such application is pending, under oath, an adverse claim setting forth the nature and extent thereof, and such adverse claimant shall, within sixty days after the filing of such adverse claim, begin action to quiet title in a court of competent jurisdiction within the District of Alaska, and thereafter no patent shall issue for such claim until the final adjudication of the rights of the parties, and such patent shall then be issued in conformity with the final decree of the court.]

* * * * * * *

Section 1 of the Act of March 12, 1914

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is hereby empowered, authorized, and directed to adopt and use a name by which to designate the railroad or railroads and properties to be located, owned, acquired, or operated under the authority of this Act; to employ such officers, agents, or agencies, in his discretion, as may be necessary to enable him to carry out the purposes of this Act; to authorize and require such officers, agents, or agencies to perform any or all of the duties imposed upon him by the terms of this Act; to detail and require any officer or officers in the Engineer Corps in the Army or Navy to perform service under this Act; to fix the compensation of all officers, agents, or employees appointed or designated by him; to designate and cause to be located a route or routes for a line or lines of railroad in the Territory of Alaska not to exceed in the aggregate one thousand miles, to be so located as to connect one or more of the open Pacific Ocean harbors on the southern coast of Alaska with the navigable waters in the interior of Alaska, and with a coal field or fields so as

best to aid in the development of the agricultural and mineral or other resources of Alaska, and the settlement of the public lands therein, and so as to provide transportation of coal for the Army and Navy, transportation of troops, arms, munitions of war, the mails, and for other governmental and public uses, and for the transportation of passengers and property; to construct and build a railroad or railroads along such route or routes as he may so designate and locate, with the necessary branch lines, feeders, sidings, switches, and spurs; to purchase or otherwise acquire all real and personal property necessary to carry out the purposes of this Act; to exercise the power of eminent domain in acquiring property for such use, which use is hereby declared to be a public use, by condemnation in the courts of Alaska in accordance with the laws now or hereafter in force there; to acquire rights of way, terminal grounds, and all other rights; to purchase or otherwise acquire all necessary equipment for the construction and operation of such railroad or railroads; to build or otherwise acquire docks, wharves, terminal facilities, and all structures needed for the equipment and operation of such railroad or railroads; to fix, change, or modify rates for the transportation of passengers and property, which rates shall be equal and uniform, but no free transportation or passes shall be permitted except that the provisions of the interstate commerce laws relating to the transportation of employees and their families shall be in force as to the lines constructed under this Act; to receive compensation for the transportation of passengers and property, and to perform generally all the usual duties of a common carrier by railroad; to make and establish rules and regulations for the control and operation of said railroad or railroads; in his discretion, to lease the said railroad or railroads, or any portion thereof, including telegraph and telephone lines, after completion under such terms as he may deem proper, but no lease shall be for a longer period than twenty years, or in the event of failure to lease, to operate the same until the further action of Congress: *Provided*, That if said railroad or railroads, including telegraph and telephone lines, are leased under the authority herein given, then and in that event they shall be operated under the jurisdiction and control of the provisions of the interstate commerce laws; to purchase, condemn, or otherwise acquire upon such terms as he may deem proper any other line or lines of railroad in Alaska which may be necessary to complete the construction of the line or lines of railroad designated or located by him: *Provided*, That the price to be paid in case of purchase shall in no case exceed the actual physical value of the railroad; to make contracts or agreements with any railroad or steamship company or vessel owner for joint transportation of passengers or property over the road or roads herein provided for, and such railroad or steamship line or by such vessel, and to make such other contracts as may be necessary to carry out any of the purposes of this Act; to utilize in carrying on the work herein provided for any and all machinery, equipment, instruments, material, and other property of any sort whatsoever used or acquired in connection with the construction of the Panama Canal, so far and as rapidly as the same is no longer needed at Panama, and the Isthmian Canal Commission is hereby authorized to deliver said property to such officers or persons as the President may designate, and to take credit therefor at such percentage

of its original cost as the President may approve, but this amount shall not be charged against the fund provided for in this Act.

* * * * * * *

[The President is hereby authorized to withdraw, locate, and dispose of, under such rules and regulations as he may prescribe, such area or areas of the public domain along the line or lines of such proposed railroad or railroads for town-site purposes as he may from time to time designate.]

* * * * * * *

Act of July 8, 1916

[AN ACT To amend the United States homestead law in its application to Alaska, and for other purposes

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

[SECTION 1. That every person who is qualified under existing laws to make homestead entry of the public lands of the United States who has settled upon or who shall hereafter settle upon any of the public lands of the United States situated in the District of Alaska, whether surveyed or unsurveyed, with the intention of claiming the same under the homestead laws, shall, subject to the provisions and limitations of the Act approved March third, nineteen hundred and three, chapter one thousand and two, United States Statutes at Large, page one thousand and twenty-eight, be entitled to enter one hundred and sixty acres or a less quantity of unappropriated public land in said District of Alaska, and no more, and a former homestead entry in any other State or Territory shall not be a bar to a homestead entry in Alaska: *Provided*, That nothing herein contained shall be construed to limit or curtail the area of any homestead claim heretofore lawfully initiated.

[SEC. 2. The entryman may, after due compliance with the terms of the homestead laws, file his final homestead proof in accordance with applicable regulations of the Secretary of the Interior regardless of whether or not the system of public surveys has been extended over the land included in a homestead entry. The Secretary of the Interior shall, within one year after the filing of such proof, issue proper instructions for the survey of the land so entered, without expense to the entryman, and if the entryman has compiled with the requirements of the homestead law and applicable regulations a patent based on such survey shall be issued. Nothing in this section, however, shall prevent the homesteader from securing earlier action on his entry and proof by a special survey at his own expense, if he so elects.

[SEC. 3. That there shall be excepted from homestead settlement and entry under this Act the lands in Annette and Pribilof Islands, the islands leased or occupied for the propagation of foxes, and such other lands as have been, or may be, reserved or withdrawn from settlement or entry.]

Act of October 28, 1921

[AN ACT For the consolidation of the offices of register and receiver in district land offices in certain cases, and for other purposes

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President is authorized to consolidate the offices of register and receiver in any district land office, and to appoint, by and with the advice and consent of the Senate, a register for such land office and to abolish the office of receiver of such land office upon sixty days' notice of such abolition mailed to such register and receiver whenever the total compensation for both register and receiver of such land office shall fall below the sum of $4,000 per annum, and in his opinion the interests of the service warrant such abolition.

[Within sixty days after the mailing of such notice the office of receiver of such land office shall cease to exist, and all the powers, duties, obligations, and penalties imposed by law upon both register and receiver of such office shall be exercised by and imposed upon the register so appointed, who shall be paid a salary of $500 per annum, together with the fees and commissions otherwise allowable to both register and receiver: *Provided,* That the salary, fees, and commissions of such register shall not exceed $3,000 per annum.

[SEC. 2. That in case of a vacancy in the office of register by reason of death, resignation, or removal, or in case of inability to act, the Secretary of the Interior may designate for the period of such vacancy or inability to act the chief clerk of such office, or any other qualified employee of the Department of the Interior to act as register, subject to the filing of such bond or bonds as the Secretary of the Interior may prescribe, and the same authority is conferred upon the person so designated which such register lawfully possesses, except that no contest or protest shall be decided or disposed of by such clerk or employee, but all such decisions shall be deferred until the appointment or return of the register.]

Act of March 8, 1922

[AN ACT To provide for agricultural entries on coal lands in Alaska

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That Claims under section 10 of the Act of May 14, 1898 (30 Stat. 413), as amended (48 U.S.C. 461), and homestead claims may be initiated by actual settlers on public lands of the United States in Alaska known to contain workable coal, oil, or gas deposits, or that may be valuable for the coal, oil, or gas contained therein, and which are not otherwise reserved or withdrawn, whenever such claim shall be initiated with a view of obtaining or passing title with a reservation to the United States of the coal, oil, or gas in such lands, and of the right to prospect for, mine, and remove the same; and any claimant who has initiated such a claim in good faith on lands containing workable deposits of coal, oil, or gas, or that may be valuable for the coal, oil, or gas contained therein, may perfect the same under the provisions of the laws under which the

claim was initiated, but shall receive the limited patent provided for in this Act: *Provided, however*, That should it be discovered at any time prior to the issuance of a final certificate on any claim initiated for unreserved lands in Alaska that the lands are coal, oil, or gas in character, the patent issued on such entry shall contain the reservation required by this Act.

[SEC. 2. That upon satisfactory proof of full compliance with the provisions of the laws under which the entry is made and of this Act the entryman shall be entitled to a patent to the lands entered by him, which patent shall contain a reservation to the United States of all the coal, oil, or gas in the land so patented, together with the right to prospect for, mine, and remove the same, The coal, oil, or gas deposits so reserved shall be subject to disposal by the United States in accordance with the provisions of the laws applicable to coal, oil, or gas deposits or coal, oil, or gas lands in Alaska in force at the time of such disposal. Any person qualified to acquire coal, oil, or gas deposits, or the right to mine and remove the coal or to drill for and remove the oil or gas under the laws of the United States, shall have the right at all times to enter upon the lands entered or patented, as provided by the provisions of this Act, for the purpose of prospecting for coal, oil, or gas therein, upon the approval by the Secretary of the Interior of a bond or undertaking to be filed with him as security for the payment of all damages to the crops and improvements on such lands by reason of such prospecting. Any person who has acquired from the United States the coal, oil, or gas deposits in any such land, or the right to mine, drill for, or remove the same, may reenter and occupy so much of the surface thereof as may be required for all purposes reasonably incident to the mining and removal of the coal, oil, or gas thereform, and mine and remove the coal or drill for and remove the oil or gas upon payment of the damages caused thereby to the owner thereof, or upon giving a good and sufficient bond or undertaking in an action instituted in any competent court to ascertain and fix said damages: *Provided*, That the owner under such limited patent shall have the right to mine the coal for use on the land for domestic purposes at any time prior to the disposal by the United States of the coal deposits: *Provided further*, That nothing in this Act shall be construed as authorizing the exploration upon or entry of any coal deposits withdrawn from such exploration and purchase.

[SEC. 3. The Secretary of the Interior may (a) sell under the provisions of section 2455 of the Revised Statutes (43 U.S.C. 1171), as amended, or (b) make disposition under the following townsite laws, as amended: Sections 2380 and 2381 of the Revised Statutes (43 U.S.C. 711, 712); section 11 of the Act of March 3, 1891 (26 Stat. 1009; 48 U.S.C. 335); Act of May 25, 1926 (44 Stat. 629; 48 U.S.C. 355a–355d); and Act of March 12, 1914 (38 Stat. 305; 48 U.S.C. 301, 302, 303–308), of any lands in Alaska known to contain workable coal, oil or gas deposits, or that may be valuable for the coal, oil or gas contained therein, and which are otherwise subject to sale or disposition under said section 2455, as amended, or the said townsite laws, as amended, upon the condition that the patent issued to the purchaser thereof shall contain the reservation required by section 2 of this Act.]

Act of April 13, 1926

Chapter 121.—AN ACT To authorize a departure from the rectangular system of surveys of homestead claims in Alaska, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [That the provisions of the Act of May 14, 1898 (Thirtieth Statutes at Large, page 409), extending the homestead laws to Alaska, and the Act of March 3, 1903 (Thirty-second Statutes at Large, page 1028), amendatory thereof, in so far as they require that the lands so settled upon, or to be settled upon, if unsurveyed, must be located in rectangular form by north and south lines running according to the true meridian, and marked upon the ground by permanent monuments at each of the four corners; shall not apply where, by reason of the local or topographic conditions, it is not feasible or economical to include in a rectangular form with cardinal boundaries the lands desired; but all such claims must be compact and approximately rectangular in form, and marked upon the ground by permanent monuments at each corner, and the entryman or claimant shall conform his boundaries thereto. In all other respects the claims will be in conformity with the provisions of the aforesaid Acts.]

SEC. 2. That if the rectangular system of the public land surveys has not been extended over the lands included in a soldier's additional homestead entry, authorized by the aforesaid Act of May 14, 1898, as amended by the Act of March 3, 1903, or a trade and manufacturing site authorized by section 10 of the first-named Act, the entryman or claimant may, upon the approval of the register and receiver, make application to the public survey office for an official survey of his claim, accompanied by a deposit of the estimated cost of the field and office work incident to the execution of such survey. Upon receipt of the application and its accompanying deposit the public survey office will immediately issue appropriate instructions for the survey of the lands involved, to be executed by the surveying service of the General Land Office not later than the next surveying season under the direction of the supervisor of surveys, unless by reason of the inaccessibility of the locality or other conditions the supervisor of surveys decides that it will result to the advantage of the Government or claimants to have the survey executed by a United States deputy surveyor, in which event the laws and regulations now governing the execution of the surveys by United States deputy surveyors will be observed.

[SEC. 3. The sum so deposited shall be held by the public survey office, and may be expended by it in payment of the cost of such survey, including field and office work; and any excess over the cost of the survey shall be repaid to the depositor or his legal representative. The Secretary of the Interior is authorized to make all necessary rules and regulations to carry this Act into full force and effect.]

Section 1 of the Act of May 25, 1926

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [That where, upon

the survey of a town site pursuant to section 11 of the Act of March 3, 1891 (Twenty-sixth Statutes, page 1095), and the regulations of the Department of the Interior under said Act, a tract claimed and occupied by an Indian or Eskimo of full or mixed blood, native of Alaska, has been or may be set apart to such Indian or Eskimo, the town site trustee is authorized to issue to him a deed therefor which shall provide that the title conveyed is inalienable except upon approval of the Secretary of the Interior: *Provided*, That nothing herein contained shall subject such tract to taxation, to levy and sale in satisfaction of the debts, contracts, or liabilities of the patentee, or to any claims of adverse occupancy or law of prescription: *Provided further*, That the approval by the Secretary of the Interior of the sale by an Indian or Eskimo of a tract deeded to him under this Act shall vest in the purchaser a complete and unrestricted title from the date of such approval.]

Act of July 24, 1947

[AN ACT

[To authorize the Legislature of the Territory of Alaska to provide for the exercise of zoning power in town sites on the public lands of the United States.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Legislature of the Territory of Alaska is hereby authorized to exercise or to provide for the exercise of zoning power, through a Territorial Zoning Commission or otherwise, in town sites on the public lands of the United States in Alaska; except that such power shall not extend to lands or buildings while they are being utilized by, or to buildings or other structures while they are being constructed by or for, the United States.]

Act of February 26, 1948

[AN ACT

[To permit the issuance of unrestricted deeds for town-site lands held by Alaska natives, and for other purposes.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the trustee or trustees to whom a patent has been issued for a townsite surveyed pursuant to section 11 of the Act of March 3, 1891 (26 Stat. 1095), or section 3 of the Act of May 25, 1926 (44 Stat. 629), upon a finding by the Secretary of the Interior or his authorized representative that any Alaska native who claims and occupies a tract of land within such townsite is competent to manage his own affairs and has petitioned the Secretary or his authorized representative for an unrestricted deed, or shall issue to such native an unrestricted deed, and thereafter all restrictions as to sale, encumbrance, or taxation of said lands shall be removed, but said land shall not be liable to the satisfaction of any debt, except obligations owed the Federal Government, contracted prior to the issuing of such deed.]

Sections 2, 3, 4, and 5 of the Act of April 29, 1950

[SEC. 2. Any person who at the effective date of this Act is maintaining a settlement claim on surveyed or unsurveyed public land in Alaska shall file notice of the location of his settlement claim in the United States land office for the district in which the land is situated, (a) within ninety days from the effective date of this Act, if notice of the location has not heretofore been filed in the recording district in which the land is situated, or (b) within two years from the effective date of this Act, if notice of the location has heretofore been filed in such recording district.

[SEC. 3. Unless notice of a settlement claim is filed in the proper district land office within the time prescribed by sections 1 and 2 of this Act, the claimant, in making homestead proof or submitting a showing of residence, cultivation and improvements as a basis for a free survey, shall not be given credit for such residence and cultivation as may have taken place prior to the filing of (a) a notice of the claim in the proper district land office, (b) a petition for survey, or (c) an application for homestead entry, whichever is the earlier.

[SEC. 4. A homestead settler on unsurveyed public lands shall make proof of residence, cultivation, and improvements within five years from the date of the filing of notice of the settlement claim in the district land office, as a basis for a free survey under section 2 of the Act of July 8, 1916 (39 Stat. 352, 48 U. S. C., 375), and thereafter shall submit final or commutation proof in accordance with regulations of the Secretary of the Interior.

[SEC. 5. All qualified persons, associations, or corporations now holding or hereafter initiating claims subject to the provisions of section 10, Act of May 14, 1898 (30 Stat. 413,48 U. S. C., sec. 461), as amended, shall file a notice describing such claim in the manner specified by section 1 of this Act in the United States land office for the district in which the land is situated within ninety days from the effective date of this Act or within ninety days from the date of the initiation of the claim, whichever is later. Unless such notice is filed in the proper district land office within the time prescribed the claimant shall not be given credit for the occupancy maintained in the claim prior to the filing of (1) a notice of the claim in the proper district land office, or (2) an application to purchase, whichever is earlier. Application to purchase claims, along with the required proof or showing, must be filed within five years after the filing of the notice of claim under this section.]

11.—PITTMAN ACT GRANTS

Act of September 22, 1922

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior may, if he shall find that any permittee has been unable, with the exercise of diligence, to begin or continue operations for the development of underground waters within the time prescribed by sections 4 and 5 of the Act of Congress approved October 22, 1919 (Forty-first Statutes, page 295), extend the time for the beginning,

recommencement, or completion of the said operations described in said sections for such time, not exceeding two years, and upon such conditions as he shall prescribe.]

12.—INDIAN ALLOTMENTS

Section 4 of the Act of February 8, 1887

[SEC. 4. That where any Indian not residing upon a reservation, or for whose tribe no reservation has been provided by treaty, act of Congress, or executive order, shall make settlement upon any surveyed or unsurveyed lands of the United States not otherwise appropriated, he or she shall be entitled, upon application to the local land-office for the district in which the lands are located, to have the same allotted to him or her, and to his or her children, in quantities and manner as provided in this act for Indians residing upon reservations; and when such settlement is made upon unsurveyed lands, the grant to such Indians shall be adjusted upon the survey of the lands so as to conform thereto; and patents shall be issued to them for such lands in the manner and with the restrictions as herein provided. And the fees to which the officers of such local land-office would have been entitled had such lands been entered under the general laws for the disposition of the public lands shall be paid to them, from any moneys in the Treasury of the United States not otherwise appropriated, upon a statement of an account in their behalf for such fees by the Commissioner of the General Land Office, and a certification of such account to the Secretary of the Treasury by the Secretary of the Interior.]

Section 4 of the Act of February 28, 1891

[SEC. 4. That where any Indian entitled to allotment under existing laws shall make settlement upon any surveyed or unsurveyed lands of the United States not otherwise appropriated, he or she shall be entitled, upon application to the local land office for the district in which the lands are located, to have the same allotted to him or her and to his or her children, in quantities and manner as provided in the foregoing section of this amending act for Indians residing upon reservations; and when such settlement is made upon unsurveyed lands the grant to such Indians shall be adjusted upon the survey of the lands so as to conform thereto; and patents shall be issued to them for such lands in the manner and with the restrictions provided in the act to which this is an amendment. And the fees to which the officers of such local land office would have been entitled had such lands been entered under the general laws for the disposition of the public lands shall be paid to them from any moneys in the Treasury of the United States not otherwise appropriated, upon a statement of an account in their behalf for such fees by the Commissioner of the General Land Office, and a certification of such account to the Secretary of the Treasury by the Secretary of the Interior.]

WITHDRAWALS

Although section 502(c) does not amend specific provisions of law, the effect of the section is to revoke the authority to withdraw or reserve public lands such as that contained in the laws set forth below:

Section 2380 of the Revised Statutes of the United States

SEC. 2380. The President is authorized to reserve from the public lands, whether surveyed or unsurveyed, town-sites on the shores of harbors, at the junction of rivers, important portages, or any natural or prospective centers of population.

Section 21 of the Act of March 1, 1893

SEC. 21. That the said commission is hereby granted the right to use any of the public lands of the United States, or any rock, stone, timber, trees, brush, or material thereon or therein, for any of the purposes of this act; and the Secretary of the Interior is hereby authorized and requested, after notice has been filed with the Commissioner of the General Land Office by said commission, setting forth what public lands are required by it under the authority of this section, that such land or lands shall be withdrawn from sale and entry under the laws of the United States.

Section 3 of the Act of June 17, 1902

SEC. 3. That the Secretary of the Interior shall, before giving the public notice provided for in section four of this Act, withdraw from public entry the lands required for any irrigation works contemplated under the provisions of this Act, and shall restore to public entry any of the lands so withdrawn when, in his judgment, such lands are not required for the purposes of this Act; and the Secretary of the Interior is hereby authorized, at or immediately prior to the time of beginning the surveys for any contemplated irrigation works, to withdraw from entry, except under the homestead laws, any public lands believed to be susceptible of irrigation from said works: *Provided*, That all lands entered and entries made under the homestead laws within areas so withdrawn during such withdrawal shall be subject to all the provisions, limitations, charges, terms, and conditions of this Act: that said surveys shall be prosecuted diligently to completion, and upon the completion thereof, and of the necessary maps, plans, and estimates of cost, the Secretary of the Interior shall determine whether or not said project is practicable and advisable, and if determined to be impracticable or unadvisable he shall thereupon restore said lands to entry; that public lands which it is proposed to irrigate by means of any contemplated works shall be subject to entry only under the provisions of the homestead laws in tracts of not less than forty nor more than one hundred and sixty acres, and shall be subject to the limitations, charges, terms, and conditions herein provided: *Provided*, That the commutation provisions of the homestead laws shall not apply to entries made under this Act.

Section 1 of the Act of April 16, 1906

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior may withdraw from public entry any lands needed for townsite purposes in connection with irrigation projects under the reclamation Act of June seventeenth, nineteen hundred and two, not exceeding one hundred and sixty acres in each case, and survey and subdivide the same into town lots, with appropriate reservations for public purposes.

Section 2 of the Act of June 8, 1906

SEC. 2. That the President of the United States is hereby authorized, in his discretion, to declare by public proclamation historic land marks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and may reserve as a part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected: *Provided,* That when such objects are situated upon a tract covered by a bona fide unperfected claim or held in private ownership, the tract, or so much thereof as may be necessary for the proper care and management of the object, may be relinquished to the Government, and the Secretary of the Interior is hereby authorized to accept the relinquishment of such tracts in behalf of the Government of the United States.

Act of March 15, 1910

AN ACT

Authorizing the Secretary of the Interior to make temporary withdrawals of public lands for certain purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That to aid in carrying out the purposes of section four of the Act of August eighteenth, eighteen hundred and ninety-four, entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending eighteen hundred and ninety-five, and for other purposes," it shall be lawful for the Secretary of the Interior, upon application by the proper officer of any State or Territory to which said section applies, to withdraw temporarily from settlement or entry areas embracing lands for which the State or Territory proposes to make application under said section, pending the investigation and survey preliminary to the filing of the maps and plats and application for segregation by the State or Territory: *Provided,* That if the State or Territory shall not present its application for segregation and maps and plats within one year after such temporary withdrawal the lands so withdrawn shall be restored to entry as though such withdrawal had not been made.

Sections 1 and 13 of the Act of June 25, 1910

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President may, at any time in his discretion, temporarily withdraw from settlement, location, sale, or entry any of the public lands of the United States including the District of Alaska and reserve the same for water-power sites, irrigation, classification of lands, or other public purposes to be specified in the orders of withdrawals, and such withdrawals or reservations shall remain in force until revoked by him or by an Act of Congress.

* * * * * * *

SEC. 13. That the Secretary of the Interior be, and he is hereby, authorized, in his discretion, to reserve from location, entry, sale, allotment, or other appropriation any lands within any Indian reservation, valuable for power or reservoir sites, or which may be necessary for use in connection with any irrigation project heretofore or hereafter to be authorized by Congress: *Provided,* That if no irrigation project shall be authorized prior to the opening of any Indian reservation containing such power or reservoir sites the Secretary of the Interior may, in his discretion, reserve such sites pending future legislation by Congress for their disposition.

Act of October 5, 1914

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized to withdraw from other disposition and reserve for country parks, public playgrounds, and community centers for the use of the residents upon the lands such tracts as he may deem advisable not exceeding twenty acres in any one township in each reclamation project or the several units of such reclamation projects undertaken under the Act of June seventeenth, nineteen hundred and two, known as the reclamation Act.

SEC. 2. That subject to the provisions hereinafter contained every such tract of land so set apart shall be supplied with water from the Government irrigation system, the cost thereof to be charged to the remaining lands of the project as a part of the construction charge of such project, and shall be maintained and used in perpetuity by the people upon said reclaimed lands for a pleasure park, public playground, and community center.

SEC. 3. That for the purpose of carrying out and effecting the objects of this Act the Secretary of the Interior is authorized to enter into a contract with the organization formed by the owners of the lands irrigated within said project or project unit pursuant to section six of the Act of June seventeenth, nineteen hundred and two, stipulating and providing that the organization will maintain and use such of the lands so reserved for the purposes prescribed in this Act as such organization may desire, and that upon failure to so maintain and use such lands, or in the event that same shall be permitted to be used or occupied for other purposes than those stipulated in this Act, the control of the lands shall revert to the United States.

SEC. 4. That any of such lands not contracted for in accordance with the provisions of section three of this Act within ten years from the time water is available for the same, or sooner, if the Secretary of the Interior may deem it desirable, shall be disposed of in accordance with the public-land laws applicable thereto, and the proceeds from the disposition of lands reverting to the United States under the provisions of this Act, and from sales of water rights, shall be covered into the reclamation fund and placed to the credit of the project wherein the lands are situate.

Section 10 of the Act of December 29, 1916

SEC. 10. That lands containing water holes or other bodies of water needed or used by the public for watering purposes shall not be designated under this Act but may be reserved under the provisions of the Act of June twenty-fifth, nineteen hundred and ten, and such lands heretofore or hereafter reserved shall, while so reserved, be kept and held open to the public use for such purposes under such general rules and regulations as the Secretary of the Interior may prescribe: *Provided*, That the Secretary may, in his discretion, also withdraw from entry lands necessary to insure access by the public to watering places reserved hereunder and needed for use in the movement of stock to summer and winter ranges or to shipping points, and may prescribe such rules and regulations as may be necessary for the proper administration and use of such lands: *Provided further*, That such driveways shall not be of greater number or width than shall be clearly necessary for the purpose proposed and in no event shall be more than one mile in width for a driveway less than twenty miles in length, not more than two miles in width for driveways over twenty and not more than thirty-five miles in length and not over five miles in width for driveways over thirty-five miles in length: *Provided further*, That all stock so transported over such driveways shall be moved an average of not less than three miles per day for sheep and goats and an average of not less than six miles per day for cattle and horses: *Provided further*, That the withdrawal from entry of lands necessary to insure access by the public to watering places reserved hereunder shall not apply to deposits of coal and other minerals in the lands so withdrawn, and that the provisions of section 9 of this Act are hereby made applicable to said deposits in lands embraced in such withdrawals heretofore or hereafter made, but any mineral location or entry made hereunder shall be in accordance with such rules, regulations, and restrictions as may be prescribed by the Secretary of the Interior.

Section 24 of the Act of June 10, 1920

SEC. 24. Any lands of the United States included in any proposed project under the provisions of this Part shall from the date of filing of application therefor be reserved from entry, location, or other disposal under the laws of the United States until otherwise directed by the Commission or by Congress. Notice that such application has been made, together with the date of filing thereof and

a description of the lands of the United States affected thereby, shall be filed in the local land office for the district in which such lands are located. Whenever the Commission shall determine that the value of any lands of the United States so applied for, or heretofore or hereafter reserved or classified as power sites, will not be injured or destroyed for the purposes of power development by location, entry, or selection under the public land laws, the Secretary of the Interior, upon notice of such determination, shall declare such lands open to location, entry, or selection, for such purpose or purposes and under such restrictions as the Commission may determine, subject to and with a reservation of the right of the United States or its permittees or licensees to enter upon, occupy, and use any part or all of said lands necessary, in the judgment of the Commission, for the purposes of this Part, which right shall be expressly reserved in every patent issued for such lands; and no claim or right to compensation shall accrue from the occupation or use of any of said lands for said purposes. The United States or any licensee for any such lands hereunder may enter thereupon for the purposes of this Part, upon payment of any damages to crops, buildings, or other improvements caused thereby to tle owner thereof, or upon giving a good and sufficient bond to the United States for the use and benefit of the owner to secure the payment of such damages as may be determined and fixed in an action brought upon the bond in a court of competent jurisdiction, said bond to be in the form prescribed by the Commission: *Provided*, That locations, entries, selections, or filings heretofore made for lands reserved as water-power sites, or in connection with water-power development, or electrical transmission may proceed to approval or patent under and subject to the limitations and conditions in this section contained: *Provided further*, That before any lands applied for, or heretofore or hereafter reserved, or classified as power sites, are declared open to location, entry, or selection by the Secretary of the Interior, notice of intention to make such declaration shall be given to the Governor of the State within which such lands are located, and such State shall have ninety days from the date of such notice within which to file, under any statute or regulation applicable thereto, an application for the reservation to the State, or any political subdivision thereof, of any lands required as a right-of-way for a public highway or as a source of materials for the construction and maintenance of such highways, and a copy of such application shall be filed with the Federal Power Commission; and any location, entry, or selection of such lands, or subsequent patent thereof, shall be subject to any rights granted the State pursuant to such application.

Section 4 of the Act of May 13, 1924

SEC. 4. In order to carry out the provisions of this Act, the President, or any Federal agency he may designate is authorized, (a) in his discretion, to enter into agreements with any one or more of said political subdivisions, in connection with the construction of any project or works provided for in section 2, paragraph 2, and section 3 of this Act, under the terms of which agreements there shall be furnished to the United States, gratuitously, except for the examination

and approval of titles, the lands or easements in lands necessary for the construction, operation, and maintenance in whole or in part of any such project or works, or for the assumption by one or more of any such political subdivisions making such agreement, of the operation and maintenance of such project or works in whole or in part upon the completion thereof: *Provided, however*, That when an agreement is reached that necessary lands or easements shall be provided by any such political subdivision and for the future operation and maintenance by it of a project or works or a part thereof, in the discretion of the President the title to such lands and easements for such projects or works need not be required to be conveyed to the United States but may be required only to be vested in and remain in such political subdivision; (b) to acquire by purchase, exercise of the power of eminent domain, or by donation, any real or personal property which may be necessary; (c) to withdraw from sale, public entry or disposal of such public lands of the United States as he may find to be necessary and thereupon the Secretary of the Interior shall cause the lands so designated to be withdrawn from any public entry whatsoever, and from sale, disposal, location or settlement under the mining laws or any other law relating to the public domain and shall cause such withdrawal to appear upon the records in the appropriate land office having jurisdiction over such lands, and such lands may be used for carrying out the purposes of this Act: *Provided*, That any such withdrawal may subsequently be revoked by the President; and (d) to make or approve all necessary rules and regulations.

Section 9 of the Act of December 21, 1928

SEC. 9. All lands of the United States found by the Secretary of the Interior to be practicable of irrigation and reclamation by the irrigation works authorized herein shall be withdrawn from public entry. Thereafter, at the direction of the Secretary of the Interior, such lands shall be opened for entry, in tracts varying in size but not exceeding one hundred and sixty acres, as may be determined by the Secretary of the Interior, in accordance with the provisions of the reclamation law, and any such entryman shall pay an equitable share in accordance with the benefits received, as determined by the said Secretary, of the construction cost of said canal and appurtenant structures; said payments to be made in such installments and at such times as may be specified by the Secretary of the Interior, in accordance with the provisions of the said reclamation law, and shall constitute revenue from said project and be covered into the fund herein provided for: *Provided*, That all persons who served in the United States Army, Navy, Marine Corps, or Coast Guard during World War II, the War with Germany, the War with Spain, or in the suppression of the insurrection in the Philippines, and who have been honorably separated or discharged therefrom or placed in the Regular Army or Naval Reserve, shall have the exclusive preference right for a period of three months to enter said lands, subject, however, to the provisions of subsection (c) of section 4 of the Act of December 5, 1924 (43 Stat. 672, 702; 43 U.S.C., sec. 433); and also, so far as practicable, preference shall be given to said persons in all construction work

authorized by this chapter: *Provided further*, That the above exclusive preference rights shall apply to veteran settlers on lands watered from the Gila canal in Arizona the same as to veteran settlers on lands watered from the All-American canal in California: *Provided further*, That in the event such an entry shall be relinquished at any time prior to actual residence upon the land by the entryman for not less than one year, lands so relinquished shall not be subject to entry for a period of sixty days after the filing and notation of the relinquishment in the local land office, and after the expiration of said sixty-day period such lands shall be open to entry, subject to the preference in this section provided.

Section 1 of the Act of June 28, 1934

AN ACT

To stop injury to the public grazing lands by preventing overgrazing and soil deterioration, to provide for their orderly use, improvement, and development, to stabilize the livestock industry dependent upon the public range, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to promote the highest use of the public lands pending its final disposal, the Secretary of the Interior is authorized, in his discretion, by order to establish grazing districts or additions thereto and/or to modify the boundaries thereof, of vacant, unappropriated, and unreserved lands from any part of the public domain of the United States (exclusive of Alaska), which are not in national forests, national parks and monuments, Indian reservations, revested Oregon and California Railroad grant lands, or revested Coos Bay Wagon Road grant lands, and which in his opinion are chiefly valuable for grazing and raising forage crops: *Provided*, That no lands withdrawn or reserved for any other purpose shall be included in any such district except with the approval of the head of the department having jurisdiction thereof. Nothing in this Act shall be construed in any way to diminish, restrict, or impair any right which has been heretofore or may be hereafter initiated under existing law validly affecting the public lands, and which is maintained pursuant to such law except as otherwise expressly provided in this Act, nor to affect any land heretofore or hereafter surveyed which, except for the provisions of this Act, would be a part of any grant to any State, nor as limiting or restricting the power or authority of any State as to matters within its jurisdiction. Whenever any grazing district is established pursuant to this Act, the Secretary shall grant to owners of land adjacent to such district, upon application of any such owner, such rights-of-way over the lands included in such district for stock-driving purposes as may be necessary for the convenient access by any such owner to marketing facilities or to lands not within such district owned by such person or upon which such person has stock-grazing rights. Neither this Act nor the Act of December 29, 1916 (39 Stat. 862; U.S.C., title 43, secs. 291 and following), commonly known as the "Stock Raising Homestead Act", shall be construed as limiting the authority or policy of Congress or the President to include in national forests public lands of the character described in section 24 of the Act of March 3, 1891 (26 Stat. 1103; U.S.C., title 16, sec.

471), as amended, for the purposes set forth in the Act of June 4, 1897 (30 Stat. 35; U.S.C., title 16, sec. 475), or such other purposes as Congress may specify. Before grazing districts are created in any State as herein provided, a hearing shall be held in the State, after public notice thereof shall have been given, at such location convenient for the attendance of State officials, and the settlers, residents, and livestock owners of the vicinity, as may be determined by the Secretary of the Interior. No such district shall be established until the expiration of ninety days after such notice shall have been given, nor until twenty days after such hearing shall be held: *Provided, however*, That the publication of such notice shall have the effect of withdrawing all public lands within the exterior boundary of such proposed grazing districts from all forms of entry of settlement. Nothing in this Act shall be construed as in any way altering or restricting the right to hunt or fish within a grazing district in accordance with the laws of the United States or of any State, or as vesting in any permittee any right whatsoever to interfere with hunting or fishing within a grazing district.

Act of May 31, 1938

AN ACT

To authorize the withdrawal and reservation of small tracts of the public domain in Alaska for schools, hospitals, and other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized, in his discretion, to withdraw and permanently reserve small tracts of not to exceed six hundred and forty acres each of the public domain in Alaska for schools, hospitals, and such other purposes as may be necessary in administering the affairs of the Indians, Eskimos, and Aleuts of Alaska: *Provided*, That such withdrawals shall be subject to any valid existing rights.

Section 1 of the Act of May 28, 1940

AN ACT

To authorize the withdrawal of national-forest lands for the protection of watersheds from which water is obtained for municipalities, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever a municipality obtains its water supply from a national forest and has entered into a cooperative agreement with the Secretary of Agriculture for the protection of the watershed within the national forest from which the water is secured, the President of the United States may, and he is hereby, authorized, upon application by said municipality, and endorsed by the governing board of the county or counties in which the lands concerned are located and approved by the Secretaries of Agriculture and the Interior, to reserve and set aside from all forms of location, entry, or appropriation any national-forest lands, which are covered by such cooperative agreement, subject, however, to valid, existing rights and claims, and such reservation

shall remain in force until revoked by the President or by an Act of Congress: *Provided,* That nothing herein shall affect the power of the Secretary of the Interior to withdraw and utilize withdrawn lands under the Federal reclamation laws: *And provided further,* That the President, upon recommendation of the Secretaries of the Interior and Agriculture, may, by Executive order, when in his judgment the public interest would best be served thereby and after reasonable notice has been given through the Department of the Interior, restore any of the lands so withdrawn to appropriation under an applicable public-land law.

Act of July 9, 1962

AN ACT

To provide that lands within the exterior boundaries of a national forest acquired under section 8 of the Act of June 28, 1934, as amended (43 U.S.C. 315g), may be added to the national forest.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That lands heretofore or hereafter acquired under section 8 of the Act of June 28, 1934 (48 Stat. 1272), as amended (43 U.S.C. 315g), which are within the exterior boundaries of a national forest and which are determined by the Secretary of Agriculture to be suitable for administration as a part of the national forest may be set apart and reserved by the Secretary of the Interior by public land order as a part of such national forest. Lands so set apart and reserved shall be subject to the laws, rules, and regulations applicable to lands set apart and reserved from the public domain within such national forest.